

CITY OF STONECREST, GEORGIA

Honorable Mayor Jason Lary, Sr.

Council Member Jimmy Clanton, Jr. – District 1

Council Member Rob Turner- District 2

Council Member Jazzmin Cobble – District 3

Council Member George Turner- District 4

Council Member Diane Adoma – District 5

CITY COUNCIL MEETING AGENDA

October 2, 2017

10:00 a.m.

Stonecrest Library

3123 Klondike Road, Lithonia, Georgia

- I. **CALL TO ORDER:** Mayor Jason Lary
- II. **ROLL CALL:** Brenda B. James, Interim City Clerk
- III. **INVOCATION:**
- IV. **PLEDGE OF ALLEGIANCE:**
- V. **PUBLIC COMMENTS:**
- VI. **MINUTES:** Approval of Minutes of the Regular City Council Meeting of September 18, 2017 and Special Called Meeting of September 21, 2017
- VII. **ADOPTION OF THE CITY COUNCIL AGENDA:**
- VIII. **AGENDA ITEMS:**

OLD BUSINESS:

- 1. **Adoption** of an Ordinance Adopting Article X, Code of Ethics, in Chapter 2, Administration of the City Code

NEW BUSINESS:

- 2. Resolution to address the removal of Divisive Memorials in the City of Stonecrest
- 3. **First Read Only** of an Ordinance to Amend Section 4.5.3 Section 4.5.14 and Section 4.5.20 of Chapter 4- Alcoholic Beverages of the City of Stonecrest

4. **First Read Only** of an Ordinance to Amend the Soil, Erosion, Sedimentation and Pollution Control Ordinance.
5. **First Read Only** of the Ordinance for Film & Entertainment in the City of Stonecrest
6. Resolution for the Amazon Project

IX. CITY MANAGER COMMENTS:

X. CITY ATTORNEY COMMENTS:

XI. MAYOR AND COUNCIL COMMENTS:

XII. ADJOURNMENT:

XIII. EXECUTIVE SESSION:

WHEN AN EXECUTIVE SESSION IS REQUIRED, ONE WILL BE CALLED FOR THE FOLLOWING ISSUES: 1) PERSONNEL, 2) LITIGATION, 3) REAL ESTATE

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CITY COUNCIL MEETING MINUTESAGENDA

September 18, 2017

10:00a.m.

Stonecrest Library

3123 Klondike Road, Lithonia, Georgia

- I. CALL TO ORDER:** Mayor Jason Lary
- II. ROLL CALL:** All Present
- III. INVOCATION:** Council Member Rob Turner
- IV. PLEDGE OF ALLEGIANCE:**
- V. PUBLIC COMMENTS:** Prior to the public comments the Clerk, Brenda James read the Rules for Public Comments.

Faye Coffied inquired as to when Stonecrest will get their own Zip Code. She said she and John Evans did not come to the last meeting together and said she has her issues with the appointments but she means no harm to anyone on Council.

Harold Smith spoke on the lack of the agenda and minutes information on the city's website for the public.

- VI. MINUTES:** Approval of Minutes of the September 5, 2017 City Council Meeting

Mayor Lary stated on the first page of the minutes change the second sentence of Mrs. Coffield's statement to read "She spoke on her belief or claim that Bernard Knight had run background checks on her", and on the second page change the minutes to read "Mr. Knight said no, he has not run a background check on Mrs. Coffield and she is mistaken."

Council Member George Turner made a motion to approve the minutes with the changes. Council Member Adoma provided the second. **The motion carried unanimously.**

VII. ADOPTION OF THE CITY COUNCIL AGENDA:

Mayor Lary asked to move #7 to item #1 and add SPLOST Bond Resolution and Financing as #8. Council Member Rob Turner made a motion to adopt the agenda with the changes. Council Member George Turner provided the second. **The motion carried unanimously.**

VIII. PRESENTATIONS: There were no presentations.

IX. AGENDA ITEMS:

Approval of the Resolution in Support of the Dekalb Housing Authority to Exercise its Powers within the City of Stonecrest for a Multifamily Housing Project for Seniors.

City Manager, Michael Harris gave an overview of the project. Mr. Pete Walker, CEO of the Dekalb Housing Authority also spoke. Mayor Lary said he and Mr. Walker were classmates at Clark University.

Council Member Adoma made a motion to approve the Resolution in Support of the Dekalb Housing Authority with Council Member George Turner providing the second. **The motion carried unanimously.**

1. Adoption of the Ordinance to Adopt Chapter 1- General Provisions of the Code of Ordinances of the City of Stonecrest, Georgia

Attorney Cosgray gave an overview of Chapter 1- General Provision of the Code.

Council Member Adoma made a motion to approve the Ordinance to Adopt Chapter 1- General Provisions of the Code of the City of Stonecrest with Council Member Rob Turner providing the second. **The motion carried unanimously.**

2. Adoption of the Ordinance to Adopt Chapter 2- Administration of the Code of Ordinances of the City of Stonecrest, Georgia

Attorney Destiny Washington gave an overview of the changes made since the last meeting. She stated the Ethic Policy would come at a later meeting.

Council Member Rob Turner made a motion to approve the Ordinance to Adopt Chapter 2- Administration of the Code with Council Member George Turner providing the second. **The motion carried unanimously.**

3. Adoption of the Ordinance Adopting Chapter 24 Taxation, Article 1 to Adopt Insurance License Fees and premium Tax Regulations

Attorney Destiny Washington gave an overview of Chapter 24 Taxation.

Council Member George Turner made a motion to approve the Adoption of Chapter 24 Taxation with Council Member Adoma providing the second. **The motion carried unanimously.**

4. Adoption of the Ordinance Adopting Fees for Annexation Applications for the City of Stonecrest

Attorney Emily M. Preston gave an overview of the Fees for Annexation Applications.

Council Member Rob Turner made a motion to approve the Ordinance Adopting Fees for Annexation Applications with Council Member George Turner providing the second. **The motion carried unanimously.**

5. Adoption of the Ordinance to Amend the Schedule of Fees for Business, Alcohol and other Licenses and Permits in the City of Stonecrest

Attorney Emily M. Preston gave an overview of the Ordinance to amend the schedule of fees.

Council Member George Turner made a motion to approve the Schedule of Fees with Council Member Adoma providing the second. **The motion carried unanimously.**

6. Approval of the Financial Management Policies Purchasing Policy

Attorney Destine Washington gave an overview of Financial Management Policies.

Council Member Adoma made a motion to approve the Financial Management Policies with Council Member Clanton providing the second. **The motion carried unanimously.**

8. Discussion on the SPLOST/ Bond Resolution

Attorney Tom Kurie gave an overview of the SPLOST and a General Obligation Bond and spoke on how both will impact the City of Stonecrest. He introduced Susan Langford and James Garner of the Butler Snow LLP Group and Serena Nowell of Fincher and Denmark. No Action was taken.

X. CITY MANAGER COMMENTS:

City Manager, Michael Harris explained there had been some complications regarding the staff that post the agenda on the system, but they are currently working on it. He said if you have questions about the agenda, please contact the City Clerk. He also spoke on a meeting with the judges.

XI. CITY ATTORNEY COMMENTS: No Comments

XII. MAYOR AND COUNCIL COMMENTS:

Council Member Cobble thanked everyone for the community cleanup, and announced on Wednesday, September 20th there will be a meeting of the Dekalb County Young Democrats.

Council Member George Turner announced a District 4 meeting at Big Miller Grove Baptist Church on September 21th.

Council Member Adoma left at 12:05pm

Council Member Clanton had no comments.

Council Member Rob Turner announced a Townhall Meeting for the SPLOST at the Lou Walker Center on September 19th.

Mayor Lary spoke on two new committees, Arabian Mountain Advisory Board and Citizens Mayor Council. He said the SPLOST meetings have been great because it is a complicated subject. Mayor Lary announced the City of Stonecrest is bidding for Amazon.

XIII. ADJOURNMENT:

Council Member Cobble made a motion to adjourn with Council Member Rob Turner providing the second. **The motion carried unanimously.**

XIV. EXECUTIVE SESSION:

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SPECIAL CALLED MEETING MINUTES

September 21, 2017

10: 00 A. M.

Stonecrest Library

3123 Klondike Road, Lithonia, Georgia

- I. CALL TO ORDER:** Mayor Jason Lary called the meeting to order at 10:10 a.m.
- II. ROLL CALL:** Council Member Rob Turner was absent; all other members were present.
- III. PUBLIC HEARINGS:**

- 1. SPLOST and General Obligation Bond Resolution**

Plez Joyner, Assistant City Manager gave a brief overview of the term and background of the SPLOST. He then turned the meeting over to Mr. John Funny of Grice Consulting Company.

Mr. Funny presented a power point presentation to explain the SPLOST. He also spoke on the difference in the HOST and the SPLOST. After his presentation, the floor was opened for questions.

The City Attorney, Tom Kurrie explained the SPLOST will end in 6 years. He explained the Department of Revenue will take 1% as its fee. He also said if the citizens of Stonecrest do not vote for the GO Bonds and the SPLOST passes in the county, the city will still get the SPLOST funds. However, we would be prohibited from issuing GO Bonds.

Council Member Clanton made a motion to approve the SPLOST and General Obligations Bond Resolution with Council Member George Turner providing the second. **The motion carried unanimously.**

IV. COUNCIL COMMENTS:

Council Member Adoma announced October 10th her Townhall Meeting and October 12th a Smart City Meeting.

Council Member George Turner announced the Townhall Meeting, September 21st at Big Miller Grove Baptist church.

Mayor Lary thanked the Council for all the SPLOST Meetings.

V. ADJOURNMENT:

Council Member Cobble made a motion to adjourn the meeting at 11:30am with Council Member Clanton providing the second. **The motion carried unanimously.**

VI. EXECUTIVE SESSION:

WHEN AN EXECUTIVE SESSION IS REQUIRED, ONE WILL BE CALLED FOR THE FOLLOWING ISSUES: 1) PERSONNEL, 2) LITIGATION, 3) REAL ESTATE



CITY COUNCIL AGENDA ITEM

**SUBJECT: An Ordinance Adopting Article X, Code of Ethics, in Chapter 2,
Administration of the City Code**

☐ **ORDINANCE** ☐ **POLICY** ☐ **STATUS REPORT**
☐ **DISCUSSION ONLY** ☐ **RESOLUTION** ☒ **OTHER**

Date Submitted: 09/05/2017 Work Session: 09/13/2017 Council Meeting: 10/02/2017

SUBMITTED BY: Attorney Destiny Washington

PURPOSE:

HISTORY: First Read on 09/05/2017

"At the September 13, 2017 work session, Mayor and Council requested that the assistant city attorney prepare a list of the appointed bodies that would currently be subject to the code of ethics. Those bodies are provided below:

- *Board of Zoning Appeals
- *Design Review Board
- *Historic Preservation Board
- *Planning Commission
- *Construction Board of Appeals
- *Alcohol Licensing and Appeals Board"

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Adoption of the Ordinance

**ORDINANCE OF THE CITY OF STONECREST, GEORGIA, ADOPTING ARTICLE X,
CODE OF ETHICS, IN CHAPTER 2, ADMINISTRATION, OF THE CITY CODE.**

WHEREAS, the City of Stonecrest, Georgia Mayor and City Council are authorized by Section 1.03 of the City Charter to adopt “ethics ordinances and regulations governing such things including, but not limited to, the conduct of municipal elected officials, appointed officials, contractors, vendors, and employees; establishing procedures for ethics complaints; and setting forth penalties for violations of such rules and procedures;” and

WHEREAS, this Ordinance shall be adopted as part of the City of Stonecrest City Code, as Article X, Code of Ethics, in Chapter 2, Administration.

THEREFORE, the Mayor and City Council of the City of Stonecrest, Georgia, hereby ordain as follows:

Section 1: The Mayor and City Council of the City of Stonecrest, Georgia hereby adopt an ordinance designated as “Article X, Code of Ethics” in Chapter 2, Administration, to read and to be codified as follows:

“ARTICLE X. - CODE OF ETHICS

Sec. 2-375. - Declaration of policy.

(a) It is the policy of the City that the proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that governmental decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, a code of ethics for all city officials and employees is adopted.

(b) This code of ethics has the following purposes:

(1) To encourage high ethical standards in official conduct by city officials and employees;

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(2) To establish guidelines for ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interest of the city;

(3) To require disclosure by such officials and employees of private financial or other interest in manners affecting the city; and

(4) To serve as a basis for disciplining those who refuse to abide by its terms.

Sec. 2-376. - Scope of persons covered.

The provisions of this code of ethics shall be applicable to the mayor, all members of the city council, all appointed members of boards, commissions, authorities and other similar bodies, and all employees.

Sec. 2-377. - Definitions.

As used in this Article, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

(a) *Censure* means the act of condemning as wrong. A censure shall be effectuated by entry in the minutes of a city council meeting.

(b) *City official and/or official*, unless otherwise expressly defined, means the mayor, the members of the city council, candidates for the offices of the mayor and city council after legal notice of candidacy and qualification as such candidate, the municipal court judges (including substitute judges), the city manager, any assistant city managers, the city clerk, any deputy city clerks, whether such person is salaried, hired or elected, and all other persons holding positions designated by the city charter, as it may be amended from time to time. City officials, unless otherwise expressly defined, includes individuals appointed by

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the mayor, city council, or both, to all city boards, commissions, authorities and other similar bodies, unless specifically exempted from this Article by law and/or the city council.

(c) *Complainant* means a person or entity who submits to the city clerk an ethics complaint alleging a violation of this Article.

(d) *Decision* means any article, resolution, contract, franchise, formal action or other matter voted on by the city council or other city board or commission, as well as the discussions or deliberations, of the council, board or commission which can or may lead to a vote or formal action by such body.

(e) *Discretionary authority* means the power to exercise any judgment in a decision or action.

(f) *Employee* means full-time or part-time employees of the City.

(g) *Entity* means a sole proprietorship, partnership, limited partnership, firm, corporation, professional corporation, holding company, joint stock company, receivership, trust or any other entity recognized by law through which business may be conducted.

(h) *Immediate family* means the legal and/or biological parent, sibling, child, spouse, or any corresponding in-law of any city official or employee.

(i) *Interest*:

(1) *Incidental interest* means an interest in a person, entity or property which is not a substantial interest.

(2) *Remote interest* means an interest of a person or entity, including a city official or employee, who would be affected in the same way as the general public. The interest of a council member in the property tax rate, general city fees, city utility charges, or a comprehensive zoning article or similar decisions is incidental to the extent that the councilmember would be affected in common with the general public.

(3) *Substantial interest* means a known interest, either directly or through a member of the Immediate Family, in another person or entity:

a. The interest is ownership of five (5) percent or more of the voting stock, shares or equity of an entity or ownership of five thousand dollars (\$5,000.00) or more of the equity or market value of the entity; or

b. Funds received by the person from the other person or entity either during the previous twelve (12) months equaled or exceeded five thousand dollars (\$5,000.00) in salary, bonuses, commissions or professional fees, or ten (10) percent of the recipient's gross income during that period, whichever is less; or

c. The person serves as a corporate officer or member of the board of directors or other governing board of the for-profit entity other than a corporate entity owned or created by the city council; or

d. The person is a creditor, debtor or guarantor of the other person or entity in an amount of five thousand dollars (\$5,000.00) or more.

(4) *Substantial interest in real property* means an equitable or legal ownership interest in real property with a fair market value of five thousand dollars (\$5,000.00) or more.

(j) *Ethics complaint* means a written document alleging a violation of this Article by a city official or employee. All ethics complaints filed with the city shall contain the following:

(1) A brief statement specifically identifying the name and title of the city official or employee against whom the complaint is filed. An ethics complaint may not allege violations and/or seek action against more than one city official or employee;

(2) A numbered list separately identifying each improper act which the city official or employee is alleged to have committed, including 1) the date of any such alleged

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offense(s); 2) the specific section(s) of this Article that each act is alleged to be in violation of; and 3) the factual basis for each alleged violation;

(3) A sworn and notarized statement by the complainant attesting that all information in the complaint is true to the complainant's information and knowledge;

(4) Email address, phone number and mailing address where the complainant may be contacted; and

(5) The complainant's residential address within the city limits.

(k) *Reprimand* means an official reproof, reprehension, or rebuke of a wrong. A reprimand shall be effectuated by resolution of the mayor and council.

(l) *Respondent* means a city official or employee charged with a violation of this Article.

Sec. 2-378. - Standards of conduct.

(a) No city official or employee shall use such position to secure special privileges or exemptions for such person or others, or to secure confidential information for any purpose other than official responsibilities.

(b) No city official or employee, in any matter before the body in which he/she has a substantial interest, shall fail to disclose for the common good for the record such interest prior to any discussion or vote.

(c) No city official or employee shall act as an agent or attorney for another in any matter before the city council or any city body.

(d) No city official or employee shall directly or indirectly receive or agree to receive any compensation, gift, reward or gratuity in any matter or proceeding connected with, or related to, the duties of his/her office except as may be provided by law.

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- 116 (e) No city official or employee shall enter into any contract with the city except as specifically
117 authorized by state statutes. Any city official or employee who has a proprietary interest in
118 an agency doing business with the city shall make known that interest in writing to the city
119 council and the city clerk.
- 120 (f) All public funds shall be used for the general welfare of the people and not for personal
121 economic gain.
- 122 (g) Public property shall be disposed of in accordance with Georgia law.
- 123 (h) No city official or employee shall solicit or accept other employment to be performed or
124 compensation to be received while still a city official or employee if the employment or
125 compensation could reasonably be expected to impair in judgment or performance of that
126 official's or employee's city duties.
- 127 (i) If a city official or employee accepts or is soliciting a promise of future employment from
128 any person or entity who has a substantial interest in a person, entity or property which
129 would be affected by any decision upon which the official or employee might reasonably be
130 expected to act, investigate, advise, or make a recommendation, the official or employee
131 shall disclose the fact to the body on which he or she serves, or to his/her supervisor, and
132 shall take no further action or matters regarding the potential future employer.
- 133 (j) No city official or employee shall use city facilities, personnel, equipment or supplies for
134 private purposes, except to the extent such are lawfully available to the public.
- 135 (k) No city official or employee shall grant or make available to any person any consideration,
136 treatment, advantage or favor beyond that which it is the general practice to grant or make
137 available to the public at large.

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(l) No city official or employee shall directly or indirectly solicit from a person or entity a gift, loan, favor, promise, or thing of value for him/herself or another person or entity if the city official or employee is, at the time of such solicitation, involved in any official act or action which would result in a benefit to the person or entity from whom the gift, loan, favor, promise or thing of value is solicited. However, the above prohibition shall not apply in the case of:

(1) Occasional unsolicited non-monetary gift(s) and/or trinket(s) with a value of less than one hundred dollars (\$100.00), such as a calendar, memento, pen, and/or admission to or consumption of food and/or beverages at a function, social setting or event;

(2) An award publicly presented in recognition of public service;

(3) Any transaction authorized by and performed in accordance with O.C.G.A. § 16-10-6 as now or hereafter amended;

(4) A commercially reasonable loan or other financial transaction made in the ordinary course of business by an institution or individual authorized by the laws of Georgia to engage in the making of such loan or financial transaction;

(5) Campaign contributions made and reported in accordance with Georgia laws;

(6) Items listed under O.C.G.A. § 16-10-2 that are specifically itemized as "a thing of value shall not include" as now or hereafter amended; or

(7) Food, beverage or expenses afforded city officials or employees, members of their families, or others that are associated with normal and customary business or social functions or activities.

Sec. 2-379. - Prohibition of conflict of interest.

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A city official or employee may not participate in a vote or decision on a matter affecting a person in whom the official or employee has a Substantial Interest or a matter affecting any property in which the official has a Substantial Interest in real property; in addition, a city official or employee who serves as a corporate officer or member of a board of directors of a nonprofit entity may not participate in a vote or decision regarding funding of the entity by or through the city. Where the interest of a city official or employee in the subject matter or a vote or decision is remote or incidental, the city official or employee may participate in the vote or decision and need not disclose the interest.

Sec. 2-380. - Exemptions.

The provisions of this Article shall not be construed to require the filing of any information relating to any person's connection with, or interest in, any professional society or any charitable, religious, social, fraternal, educational, recreational, public service, civil or political organization not conducted as a business enterprise or governmental agency, and which is not engaged in the ownership or conduct of a business enterprise or governmental agency.

Sec. 2-381. - Severability.

The provisions of this Article are severable. If any provision of this Article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Article which can be given effect without the invalid provisions or application.

Sec. 2-382. - Penalty.

(a) Any respondent found to have violated the provisions of this Article shall be subject to:

(1 Public reprimand and/or censure by the mayor and council;

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(2) A fine greater than one hundred dollars (\$100.00) but less than five hundred dollars (\$500.00); and

(3) Request for resignation by the mayor and council.

Sec. 2-383. - Filing of complaints.

(a) Only residents of the city may file a complaint under this Article. A complaint filed by a non-resident shall not be acted upon.

(b) All ethics complaints shall be filed with the city clerk. The city clerk, or his/her designee, shall email a copy of any such complaint to the city council, the city manager and the respondent(s) named in the complaint within five (5) calendar days of such filing.

(c) To discourage the filing of complaints under this Article solely for political purposes, complaints brought under this Article against a municipal election candidate filed sixty (60) calendar days prior to the opening date of qualifying for municipal office through the date of certification of the election results will not be acted upon until the election results for that office have been certified. Deadlines under this Article shall be tolled during such period. Action shall thereafter only be taken upon the ethics complaint if the candidate against whom the complaint is filed is elected to that term of office.

Sec. 2-384. - Service of documents by respondent and complainant.

(a) Within three (3) calendar days of the filing of an ethics complaint with the city clerk, the complainant shall serve by mail the individual members of the city council, the city manager and the respondent named in the complaint with a copy of the complaint at their official city addresses.

(b) The respondent may file a response to the ethics complaint with the city clerk, but is not required to do so.

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(c) The complainant and the respondent shall serve each other, the city manager and the individual members of the city council with copies of all documents filed by them with the city clerk relating to the ethics complaint, by certified mail, return receipt requested or statutory overnight delivery, within three (3) calendar days of the date that any such document is filed.

(d) The complainant and the respondent shall file with the city clerk proof of mailing of all mailings required under this Article within three (3) business days of such document being mailed. Such proof of service shall contain a copied and/or printed form provided by the postal facility which evidences the recipient, tracking number and date of such mailing. The city clerk shall verify that the correct address was indicated on the envelope.

Sec. 2-385. - Action upon complaints.

The mayor and council shall hear and render decisions on all ethics complaints filed with the city. A quorum for purposes of taking action upon an ethics complaint is the mayor and two councilmembers. If the mayor is a respondent to the ethics complaint, three councilmembers shall constitute a quorum. If less than three (3) councilmembers are available to constitute a quorum, due to the provisions in section 2-388 and/or 2-389 of this Article, a mediator, certified by the Georgia Commission on Dispute Resolution, at the mayor and council's discretion, shall be substituted for the mayor and/or any councilmembers for purposes of acquiring a three (3) person quorum. Ethics complaints shall be reviewed as follows:

(a) Preliminary review of ethics complaints:

(1) The city clerk shall schedule a meeting to occur within sixty (60) calendar days of an ethics complaint's filing for the mayor and council to vote upon whether the complaint will be dismissed or proceed to an evidentiary hearing, and shall mail notice of such

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meeting to the complainant and the respondent at least thirty (30) days prior to such meeting.

(2) The mayor and council may dismiss any ethics complaints that they determine is unjustified, frivolous or patently unfounded; substantially noncompliant with the requirements of this Article; or fails to state facts sufficient to invoke the disciplinary jurisdiction of the city council. The city clerk shall mail to the complainant and respondent the outcome of the preliminary review within five (5) calendar days of such meeting.

(3) If the mayor and council determine that the ethics complaint should proceed to an evidentiary hearing, the city clerk shall schedule such hearing to occur within thirty (30) calendar days of the mayor and council's vote at the preliminary review.

(b) Evidentiary hearing on ethics complaints:

(1) Should an ethics complaint proceed to an evidentiary hearing, the complainant and the respondent shall have the right to be represented by counsel; to hear, present and examine the evidence and witnesses; and to oppose or try to mitigate the allegations. The mayor and council may establish time limits, and other protocol, for the presentation of evidence and argument.

(2) The mayor and council shall render a final decision on the ethics complaint at an open meeting within thirty (30) calendar days of the conclusion of the hearing.

(3) The city clerk shall mail to the complainant and the respondent the mayor and council's final decision on the ethics complaint within five (5) calendar days of such decision.

(c) The mayor and council may vote to continue and/or postpone a scheduled meeting and/or hearing on an ethics complaint to a later selected date, as necessary. The grounds and date

for the reset shall be stated in the official minutes for such meeting. The city clerk shall email to the complainant and the respondent notice of the reset meeting date within five (5) calendar days of such vote.

Sec. 2-386. - Charge of noncompliance.

(a) After the filing of an ethics complaint, but at least five (5) days prior to the preliminary hearing, or evidentiary hearing if one is set, the respondent and/or complainant may file a charge of noncompliance with the city clerk, alleging that the complainant, respondent and/or any city employee/official has failed to meet a required deadline under this Article.

This paragraph is strictly limited to grievances with respect to procedural deadlines set forth under this Article, and may not be used to seek review of alleged ethics violations.

Additionally, a separate charge must be filed against each city employee and/or official who is alleged to have violated a procedural deadline set forth under this Article. The charge must identify the filer of the charge, the person against whom the charge is made, and the alleged missed deadline.

(b) The city clerk, or his/her designee, shall email a copy of such charge to the mayor and council, city manager, respondent, complainant and the employee and/or official against whom the charge is made, within five (5) calendar days of such filing. The city clerk shall not be required to email a copy of the charge to the respondent and/or complainant who filed the charge. The city manager shall cause for corrective action to be taken for any missed deadline under this Article by a city employee.

(c) The filer of the charge may also raise the charge of noncompliance as a threshold issue at the next scheduled public meeting on the ethics complaint. The mayor and council shall thereafter vote to determine whether the alleged deadline was missed. The mayor and

council's finding of a material failure by the complainant to comply with this Article at any time may result in the ethics complaint's dismissal. The council's finding of a missed deadline by a city employee and/or official, without a finding of contributing negligence by the filer of the charge, shall give the filer of the charge the option to have the proceeding continued to the next available council meeting in lieu of being heard further that day.

Sec. 2-387. - Bar against subsequent complaints.

(a) The dismissal of an ethics complaint by the mayor and council on procedural grounds shall bar the complainant from filing any subsequent complaint against the same respondent for a period of three (3) months from the date of such dismissal.

(b) Should the mayor and council deny an ethics complaint on jurisdictional grounds, and/or determine that the evidence does not establish that the respondent has committed a violation of any provision of this Article, the complainant shall be barred from filing any subsequent ethics complaint against the respondent arising from the same facts and circumstances as the adjudicated complaint.

Sec. 2-388. - Participation by accused members.

(a) If the mayor or city councilmember is charged with a violation of this Article, he/she shall not:

(1) Participate in, preside over, remain in his/her place on the dais, or have any other direct or indirect involvement with the consideration or deliberation by the mayor and council of the ethics complaint; or

(2) Substantively discuss the pending ethics complaint, including any of the facts, circumstances, or allegations supporting it with the mayor, any other councilmember, or any official or employee of the city, except at the meetings and/or hearings on the

STATE OF GEORGIA
DEKALB COUNTY
CITY OF STONECREST

ORDINANCE 2017-_____

complaint. This provision shall not prevent the mayor or any city councilmember from communicating with city employees and officials with respect to facilitating and receiving required filings and notices under this Article.

Sec. 2-389. - Participation by complaining official.

If the mayor or any city councilmember files, initiates, and/or encourages the filing of an ethics complaint against a respondent, he/she shall not actively preside over the consideration of the complaint before the city council.

Sec. 2-390. - Statute of limitations.

(a) No ethics complaint shall be permitted under this Article unless such complaint is filed within six (6) months of the commission of the act complained of, provided, however, the limitation shall be tolled during the period that the alleged offense is unknown to the complainant. Under no circumstances, however, shall any period be tolled where the complainant knew and/or should have known about the alleged violation and/or where the facts surrounding the offense were published by a news outlet, discussed at a public meeting and/or otherwise known to the general public.

(b) No proceeding under this Article shall be instituted and/or prosecuted after the expiration of the respondent's term of office during which the offense is alleged, if not re-elected immediately following such term, and/or after the resignation, death, vacancy, disqualification and/or withdrawal of the respondent from office.

Sec. 2-391. - Right to appeal.

An appeal of any adverse decision of the mayor and council rendered under this Article shall be commenced by filing a petition for a writ of certiorari in the Superior Court of DeKalb County as provided by law.

STATE OF GEORGIA
DEKALB COUNTY
CITY OF STONECREST

ORDINANCE 2017-_____

Secs. 2-392 – 3-99. - Reserved.”

Section 2:

1. It is hereby declared to be the intention of the Mayor and City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the Mayor and City Council to be fully valid, enforceable and constitutional.
2. It is hereby declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.
3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and City Council that such invalidity, unconstitutionality, or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.
4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed.
5. The within ordinance shall become effective upon its adoption.
6. The provisions of this Ordinance shall become and be made part of The Code of the City of Stonecrest, Georgia, and the sections of this Ordinance may be renumbered to accomplish such intention.

SO ORDAINED AND EFFECTIVE this the ____ day of _____, 2017.

Approved:

STATE OF GEORGIA
DEKALB COUNTY
CITY OF STONECREST

ORDINANCE 2017-_____

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Attest:

Brenda James, City Clerk

Jason Lary, Sr., Mayor

As to form:

Thompson Kurrie, Jr., City Attorney



CITY COUNCIL AGENDA ITEM

**SUBJECT: A Resolution Authorizing a Request to the State of Georgia or other owners
for the Removal of two Confederate Monuments in the City of Stonecrest**

☐ ORDINANCE ☐ POLICY ☐ STATUS REPORT
☐ DISCUSSION ONLY ☒ RESOLUTION ☐ OTHER

Date Submitted: 09/26/2017 Work Session: 09/27/2017 Council Meeting: 10/02/2017

SUBMITTED BY: Council Member Clanton

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Discussion and Recommendation of Council

STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF STONECREST

RESOLUTION 2017-10-_____

A RESOLUTION AUTHORIZING A REQUEST TO THE STATE OF GEORGIA OR OTHER OWNER FOR THE REMOVAL OF TWO CONFEDERATE MONUMENTS IN THE CITY OF STONECREST; AUTHORIZING A REQUEST TO THE GEORGIA GENERAL ASSEMBLY THAT IT AMEND CHAPTER 3 OF TITLE 50 OF THE OFFICIAL CODE OF GEORGIA TO DELETE ANY REFERENCE TO THE CONFEDERATE STATES OF AMERICA AND ITS SEVERAL STATES THEREOF.

WHEREAS, in 1956 a memorial highway marker was placed on the Covington Highway right of way (which today is Georgia State Highway 16 and U. S. Highway 278), at Wellborn Road east of Panola Road in DeKalb County, now within the city limits of Stonecrest, Georgia to honor the "Birthplace of Rebecca Ann Latimer" with an inscription entitled "Rebecca Latimer Felton"; who is historically known as an advocate of the South's racial policies, including white supremacy. During a speech in 1897, she commented that the biggest problem facing women on the farm was the danger of black rapists. She said, "If it takes lynching to protect women's dearest possession from drunken, ravening beasts, then I say lynch a thousand a week", and,

WHEREAS, the Jefferson Davis Memorial Highway was conceived in 1913 by the United Daughters of the Confederacy (U.D.C.). A highway marker that inscribed Jefferson Davis Highway, Georgia Route 1 was placed on the Covington Highway right of way (which today is Georgia State Highway 16 and U. S. Highway 278), at Wellborn Road east of Panola Road in DeKalb County and now within the city limits of Stonecrest. Jefferson Davis was the President of the Confederate States of America and commander and chief of its army and navy; and,

WHEREAS, at the time of these placements, African Americans were legally prohibited or physically threatened and killed if they desired to exercise their rights to participate in the political or public process in the communities where they resided; and,

WHEREAS, while much progress has been made, opportunities to provide a society where African American and other minority populations are full participants in the political, economic, educational and social structures within communities continue to be subverted by memorials to the cause of the Confederate States of America; and,

WHEREAS, this City Council find that the presence of the both the Rebecca Latimer Felton and the Jefferson Davis Highway historic markers is an impediment to the citizens of Stonecrest achieving inclusiveness, equity and justice as guaranteed to them under the Constitution of the State of Georgia.

NOW, THEREFORE, BE IT RESOLVED, and it is hereby resolved, by the Mayor and Council of the City of Stonecrest, Georgia, that:

1. The Mayor is authorized to take such action within the laws of the State of Georgia

and the State of Georgia to request the State of Georgia or other owner for permission to remove from the limits of the City of Stonecrest, the Rebecca Latimer Felton highway marker and the Jefferson Davis Highway marker both located on the Covington Highway right of way east of Panola Road near the intersection of Wellborn Road and deposit the same in such place as may be provided by law; and,

2. The Georgia General Assembly is encouraged by this City Council to amend Chapter 3 of Title 50 of the Official Code of Georgia to delete therein to all references to the “Confederate States of America, and its several states”.

This 2nd day of October, 2017.

Jason Lary, Sr., Mayor

Jimmy Clanton, Jr., Councilperson
Council District 1

Rob Turner, Councilperson
Council District 2

Jazzmine Cobble, Councilperson
Council District 3

George Turner, Councilperson
Council District 4

Diane Adoma, Councilperson
Council District 5

ATTEST:

Brenda James, Interim City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: An Ordinance to Amend Section 4.5.3, Section 4.5.14 and Section 4.5.20 of Chapter 4-Alcoholic Beverage of the City of Stonecrest

☐ **ORDINANCE** ☐ **POLICY** ☐ **STATUS REPORT**
☐ **DISCUSSION ONLY** ☒ **RESOLUTION** ☐ **OTHER**

Date Submitted: 09/26/2017 Work Session: 09/27/2017 Council Meeting: 10/02/2017

SUBMITTED BY: Attorney Emily M. Preston

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Discussion and Recommendation of Council

**AN ORDINANCE TO AMEND SECTION 4.5.3, SECTION 4.5.14, AND SECTION 4.5.20
OF CHAPTER 4 - ALCOHOLIC BEVERAGES, OF THE CITY OF STONECREST,
GEORGIA CODE OF ORDINANCES**

WHEREAS, the Georgia Alcoholic Beverage Code (O.C.G.A. § 3-1-1 et al.) regulates state-wide alcoholic beverage related activities in the State of Georgia;

WHEREAS, Pursuant to Section 1.03 of the Charter of the City of Stonecrest, Georgia, the City of Stonecrest (the “City”) has been vested with substantial powers, rights, and functions to generally regulate the use of real property and the sale of alcohol for the purposes of maintaining health, morals, safety, security, peace, and the general welfare of the City;

WHEREAS, the City has the power to define, regulate, license, and prohibit any act, practice, conduct, or use of property which is detrimental to health, sanitation, cleanliness, welfare and safety of the inhabitants of the City, and to provide for the enforcement of such standards;

WHEREAS, the Mayor and City Council find it desirable and in the interest of the health, safety, and welfare of the citizens of the City to amend the City’s alcohol ordinance in light of the evolving Georgia Alcoholic Beverage Code and the formation of the City; and

WHEREAS, the Mayor and City Council hereby find that regulating, prohibiting and/or defining certain conduct as set forth both below will further the goals set for in the Charter and protect the public health, safety and welfare of the citizens of the City.

NOW, THEREFORE, BE IT RESOLVED,

SECTION 1:

Section 4.5.3, of Article V, Division 1, of Chapter 4 of The Code of the City of Stonecrest, Georgia, is hereby amended to read as follows:

Sec. 4.5.3. - Age restriction for employees in licensed establishments.

- (a) No person shall be employed in or about the premises of any establishment licensed to sell alcoholic beverages at retail if the employment violates state law, nor shall any person under the age of eighteen (18) years sell, take orders for, or deliver alcoholic beverages.
- (b) Subsection (a) of this section shall not be construed to apply to establishments licensed for retail sale of beer and/or wine by the package as provided in O.C.G.A. § 3-3-24.

SECTION 2:

Section 4.5.14, of Article V, Division 2, of Chapter 4 of The Code of the City of Stonecrest, Georgia, is hereby amended to read as follows:

Sec. 4.5.14. - Employees.

The following provisions apply to all establishments holding a license for consumption of beer, wine distilled spirits on the premises:

- (1) An employee shall meet the same character requirements as set forth in the general ordinances for the licensee, except for the residency requirements.
- (2) No person shall be employed by an establishment holding a license under this chapter until such person has been fingerprinted or cleared by the City Manager or his designee and a permit issued indicating that such person is eligible for employment. The permit issued to a person under this section shall be either of the following:
 - a. Alcoholic beverage permit, which shall be issued only to a person who must be eighteen (18) years of age or older and who sells, serves or dispenses alcoholic beverages.
 - b. Nonalcoholic beverage permit, which shall be issued to a person whose employment includes but is not limited to host, hostess, doorperson, and bouncer. Nonalcoholic beverage permits shall also be issued to employees of theaters, as defined in Article 9 of Chapter 27 of the Code of the City of Stonecrest, whose employment includes but is not limited to concession sales, ticket sales, and ushers. All employees holding nonalcoholic beverage permits shall be prohibited from selling, serving, or dispensing alcoholic beverages.
- (3) No permit shall be issued until such time as a signed application has been filed with the City Manager or his designee and a search of the criminal record of the applicant completed. The application shall include the applicant's name, all of the applicant's aliases and/or any other name by which the applicant has ever been known, address, telephone number, the applicant's social security number, the date of birth with written proof thereof, and prior arrest record of applicant, though the fact of an arrest record shall be used for investigative purposes only and shall give rise to no presumption or inference of guilt. Due to the inclusion of arrest information, these applications shall be regarded as confidential and shall not be produced for public inspection without a court order.
- (4) The City Manager or his designee shall have a complete and exhaustive search made relative to any police record of the person fingerprinted or cleared. If there is no record of a violation of this division, the City Manager or his designee shall issue a permit to the employee, stating that the person fingerprinted or cleared is eligible for employment. If it is found that the person fingerprinted is not eligible for employment, the City Manager or his designee shall not issue a permit to the employee.
- (5) All permits issued through administrative error or through an error in completion of a background investigation can be terminated by the City Manager or his designee.
- (6) This section does not apply to employees whose duties are limited solely to those of a busperson, cook or dishwasher.

- (7) No licensee under this chapter shall allow any employee required to hold a permit to work on the licensed premises unless the licensee has on file, on the premises, the current, valid permit of each such employee.
- (8) If any permit holder leaves the employ of a licensed establishment, the licensee shall immediately surrender the permit to the City Manager or his designee.
- (9) All permits issued hereunder remain the property of the city, and shall be produced for inspection upon the demand of the City Manager or his designee.
- (10) It shall be the responsibility of each licensee to provide all new employees at the time of their employment, and all employees annually, with an orientation and training on the this chapter. Failure of the employee to participate shall not be a defense for an employer whose worker or agent violates any provisions of this ordinance; and provided that a licensee shall keep a record of such orientation and training, which shall be subject to inspection.

SECTION 3:

Section 4.5.20, of Article V, Division 3, of Chapter 4 of The Code of the City of Stonecrest, Georgia, is hereby amended to read as follows:

Sec. 4.5.20. - Employees.

The following provisions apply to all establishments holding a license for consumption of beer and/or wine on the premises:

- (1) An employee shall meet the same character requirements as set forth in the general ordinances for the licensee, except for the residency requirements.
- (2) No person shall be employed by an establishment holding a license hereunder until such person has been fingerprinted or cleared by the City Manager or his designee and a permit issued indicating that such person is eligible for this employment. The permit issued to a person under this section shall be either of the following:
 - a. Alcoholic beverage permit, which shall be issued only to a person who must be eighteen (18) years of age or older and who sells, serves or dispenses alcoholic beverages.
 - b. Nonalcoholic beverage permit, which shall be issued to a person whose employment includes but is not limited to host, hostess, doorperson and bouncer. Nonalcoholic beverage permits shall also be issued to employees of theaters, as defined in Article 9 of Chapter 27 of the Code of the City of Stonecrest, whose employment includes but is not limited to concession sales, ticket sales, and ushers. All employees holding nonalcoholic beverage permits shall be prohibited from selling, serving, or dispensing alcoholic beverages.
- (3) No permit shall be issued until such time as a signed application has been filed with the City Manager or his designee and a search of the criminal record of the applicant completed. The application shall include, but shall not be limited to, the name, date of birth and prior arrest record of the applicant, though the fact of an arrest record shall be used for investigative purposes only, and shall give rise to no presumption or inference of guilt. Due to the inclusion of arrest information, these applications shall be regarded as confidential and shall not be produced for public inspection without a court order.

- (4) The City Manager or his designee shall have a complete and exhaustive search made relative to any police record of the person fingerprinted or cleared. If there is no record of a violation of this division, the department shall issue a permit to the employee, stating that the person is eligible for employment. If it is found that the person fingerprinted or cleared is not eligible for employment, the department shall not issue a permit to the employee.
- (5) All permits issued through administrative error or through an error in completion of a background investigation may be terminated by the City Manager or his designee or the City Manager or his designee.
- (6) This section does not apply to employees whose duties are limited solely to those of a busperson, cook or dishwasher.
- (7) No licensee shall allow any employee required to hold a permit to work on the licensed premises unless the licensee has on file, on the premises, the current, valid permit of each such employee.
- (8) If any permit holder leaves the employ of a licensed establishment, the licensee shall immediately surrender the permit to the City Manager or his designee.
- (9) All permits issued hereunder remain the property of the city and shall be produced for inspection upon the demand of the City Manager or his designee.

SECTION 4:

1. It is hereby declared to be the intention of the Mayor and City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the Mayor and City Council to be fully valid, enforceable and constitutional.
2. It is hereby declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.
3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and City Council that such invalidity, unconstitutionality, or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed.
5. The within ordinance shall become effective upon its adoption.
6. The provisions of this Ordinance shall become and be made part of The Code of the City of Stonecrest, Georgia, and the sections of this Ordinance may be renumbered to accomplish such intention.

SO RESOLVED AND EFFECTIVE this the ____th day of October, 2017.

Approved:

Jason Lary, Sr., Mayor

Thompson Kurrie, Jr., City Attorney

Attest:

Brenda James, City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: An Ordinance to Amend Chapter 14, Article V Soil, Erosion, Sedimentation and Pollution Control Ordinance

☒ **ORDINANCE** ☐ **POLICY** ☐ **STATUS REPORT**
☐ **DISCUSSION ONLY** ☐ **RESOLUTION** ☐ **OTHER**

Date Submitted: 09/25/2017 Work Session: 09/27/2017 Council Meeting: 10/02/2017

SUBMITTED BY: City Attorney Office

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: First Read Only

ORDINANCE FOR THE ADOPTION OF CHAPTER 14, ARTICLE V- SOIL EROSION,
SEDIMENTATION AND POLLUTION CONTROL

WHEREAS, the City of Stonecrest is authorized to regulate soil and water erosion under the Ga. Const., the Charter of the City of Stonecrest, the City's general police powers, and by other powers and authority provided by federal, state and local laws applicable hereto;

WHEREAS, the Charter of the City of Stonecrest provides for a transition period, during which time the City of Stonecrest shall transition ordinances from DeKalb County and adopt new ordinances; and

WHEREAS, the City of Stonecrest has determined that the adoption of a new Soil, Erosion, Sedimentation and Pollution Control ordinance using the model ordinance bears a substantial relationship to the public welfare and achieves the purposes contained in the Code of the City of Stonecrest.

SECTION 1:

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Stonecrest, Georgia, the Code of the City of Stonecrest, Georgia, is hereby amended by adding a new article numbered Chapter 14, Article V- Soil Erosion, Sedimentation and Pollution Control Ordinance, that reads as follows:

CHAPTER 14, ARTICLE V- SOIL EROSION, SEDIMENTATION AND POLLUTION
CONTROL ORDINANCE

Sec. 14-500

This ordinance will be known as "Soil Erosion, Sedimentation and Pollution Control Ordinance."

Sec. 14-501 Definitions

The following definitions shall apply in the interpretation and enforcement of this article, unless otherwise specifically stated:

1. Best Management Practices (BMPs):

These include sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the 'Manual for Erosion and Sediment Control in Georgia' published by the Commission as of January 1 of the year in which the land-disturbing activity was permitted.

2. **Board:** The Board of Natural Resources.
3. **Buffer:** The area of land immediately adjacent to the banks of state waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat.
4. **Certified Personnel:** A person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.
5. **Coastal Marshlands:** Shall have the same meaning as in O.C.G.A. 12-5-282.
6. **Commission:** The Georgia Soil and Water Conservation Commission (GSWCC).
7. **CPESC:** Certified Professional in Erosion and Sediment Control with current certification by EnviroCert, Inc., which is also referred to as CPESC or CPESC, Inc.
8. **Cut:** A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to the excavated surface. Also known as excavation.
9. **Department:** The Georgia Department of Natural Resources (DNR).
10. **Design Professional:** A professional licensed by the State of Georgia in the field of: engineering, architecture, landscape architecture, forestry, geology, or land surveying; or a person that is a Certified Professional in Erosion and Sediment Control (CPESC) with a current certification by EnviroCert, Inc. Design Professionals shall practice in a manner that complies with applicable Georgia law governing professional licensure.
11. **Director:** The Director of the Environmental Protection Division or an authorized representative.
12. **District:** The DeKalb County Soil and Water Conservation District.
13. **Division:** The Environmental Protection Division (EPD) of the Department of Natural Resources.
14. **Drainage Structure:** A device composed of a virtually nonerodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for storm water management, drainage control, or flood control purposes.
15. **Erosion:** The process by which land surface is worn away by the action of wind, water, ice or gravity.
16. **Erosion, Sedimentation and Pollution Control Plan:** A plan required by the Erosion and Sedimentation Act, O.C.G.A. Chapter 12-7, that includes, as a minimum protections at least as stringent as the State General Permit, best management practices, and requirements in Section 14-503 C. of this ordinance.
17. **Fill:** A portion of land surface to which soil or other solid material has been added; the depth above the original ground surface or an excavation.
18. **Final Stabilization:** All soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by EPD for waste disposal, 100% of the soil surface is uniformly covered in permanent vegetation with a density of 70% or greater, or landscaped according to the Plan (uniformly covered with landscaping materials in planned landscape areas), or equivalent permanent stabilization

measures as defined in the Manual (excluding a crop of annual vegetation and seeding of target crop perennials appropriate for the region). Final stabilization applies to each phase of construction.

19. **Finished Grade:** The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.
20. **Grading:** Altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.
21. **Ground Elevation:** The original elevation of the ground surface prior to cutting or filling.
22. **Land-Disturbing Activity:** Any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in Section 14-502, Paragraph 5.
23. **Larger Common Plan of Development or Sale:** A contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale. For the purposes of this paragraph, "plan" means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.
24. **Local Issuing Authority("LIA"):** The governing authority of any county or municipality which is certified pursuant to subsection (a) O.C.G.A. 12-7-8.
25. **Metropolitan River Protection Act (MRPA):** A state law referenced as O.C.G.A. 12-5-440 et.seq. which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.
26. **Natural Ground Surface:** The ground surface in its original state before any grading, excavation or filling.
27. **Nephelometric Turbidity Units (NTU):** Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed or suspended particles are present.
28. **NOI:** A Notice of Intent form provided by EPD for coverage under the State General Permit.
29. **NOT:** A Notice of Termination form provided by EPD to terminate coverage under the State General Permit.
30. **Operator:** The party or parties that have: (A) operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or (B) day-to-day operational control of those activities that are necessary to ensure compliance with an erosion, sedimentation and pollution control plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the erosion, sedimentation and pollution control plan or to comply with other permit conditions.
31. **Outfall:** The location where storm water in a discernible, confined and discrete conveyance, leaves a facility or site or, if there is a receiving water on site, becomes a point source discharging into that receiving water.

32. **Permit:** The authorization necessary to conduct a land-disturbing activity under the provisions of this ordinance.
33. **Person:** Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of the State of Georgia, any interstate body or any other legal entity.
34. **Phase or Phased:** Sub-parts or segments of construction projects where the sub-part or segment is constructed and stabilized prior to completing construction activities on the entire construction site.
35. **Project:** The entire proposed development project regardless of the size of the area of land to be disturbed.
36. **Properly Designed:** Designed in accordance with the design requirements and specifications contained in the "Manual for Erosion and Sediment Control in Georgia" (Manual) published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted and amendments to the Manual as approved by the Commission up until the date of NOI submittal.
37. **Roadway Drainage Structure:** A device such as a bridge, culvert, or ditch, composed of a virtually nonerodible material such as concrete, steel, plastic, or other such material that conveys water under a roadway by intercepting the flow on one side of a traveled roadway consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.
38. **Sediment:** Solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by wind, water, ice, or gravity as a product of erosion.
39. **Sedimentation:** The process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.
40. **Soil and Water Conservation District Approved Plan:** An erosion, sedimentation and pollution control plan approved in writing by the DeKalb County Soil and Water Conservation District.
41. **Stabilization:** The process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.
42. **State General Permit:** The National Pollution Discharge Elimination System (NPDES) general permit or permits for storm water runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq., and subsection (f) of Code Section 12-5-30.
43. **State Waters:** Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of Georgia which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.
44. **Structural Erosion, Sedimentation and Pollution Control Practices:** Practices for the stabilization of erodible or sediment-producing areas by utilizing the mechanical

properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures and sediment traps, etc. Such practices can be found in the publication *Manual for Erosion and Sediment Control in Georgia*.

45. **Trout Streams:** All streams or portions of streams within the watershed as designated by the Wildlife Resources Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. 12-5-20, in the rules and regulations for Water Quality Control, Chapter 391-3-6 at www.epd.georgia.gov. Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

46. **Vegetative Erosion and Sedimentation Control Measures:** Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:

- a. Permanent seeding, sprigging or planting, producing long-term vegetative cover, or
- b. Temporary seeding, producing short-term vegetative cover; or
- c. Sodding, covering areas with a turf of perennial sod-forming grass.

Such measures can be found in the publication *Manual for Erosion and Sediment Control in Georgia*.

47. **Watercourse:** Any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.

48. **Wetlands:** Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Sec. 14-502- Exemptions

This article shall apply to any land-disturbing activity undertaken by any person on any land except for the following:

1. Surface mining, as the same is defined in O.C.G.A. 12-4-72, "The Georgia Surface Mining Act of 1968".
2. Granite quarrying and land clearing for such quarrying;
3. Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;
4. The construction of single-family residences, when such construction disturbs less than one (1) acre and is not a part of a larger common plan of development or sale with a

planned disturbance of equal to or greater than one (1) acre and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in O.C.G.A. 12-7-6 and this paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the Director may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of subsection (b) of O.C.G.A. 12-7-6 and the buffer zones provided by this paragraph shall be enforced by the Local Issuing Authority;

5. Agricultural operations as defined in O.C.G.A. 1-3-3, "definitions", to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;
6. Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in paragraphs (15) and (16) of Section 14-503 C. of this ordinance, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three (3) years after completion of such forestry practices;
7. Any project carried out under the technical supervision of the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture;
8. Any project involving less than one (1) acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre or within 200 feet of the bank of any state waters, and for purposes of this paragraph, "State Waters" excludes channels and drainage ways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves less than one (1) acre, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainage way, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the Local Issuing Authority from regulating any such project which is not specifically exempted by paragraphs 1, 2, 3, 4, 5, 6, 7, 9 or 10 of this section;

9. Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of the Department of Transportation or the State Road and Tollway Authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. 12-7-7.1; except where the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the Local Issuing Authority, the Local Issuing Authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;
10. Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the Local Issuing Authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders; and
11. Any public water system reservoir.

Sec. 14-503 MINIMUM REQUIREMENTS FOR EROSION, SEDIMENTATION AND POLLUTION CONTROL USING BEST MANAGEMENT PRACTICES

A. GENERAL PROVISIONS

Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirements of the ordinance and the NPDES General Permit are not met. Therefore, plans for those land-disturbing activities which are not exempted by this ordinance shall contain provisions for application of soil erosion, sedimentation and pollution control measures and practices. The provisions shall be incorporated into the erosion, sedimentation and pollution control plans. Soil erosion, sedimentation and pollution control measures and practices shall conform to the minimum requirements of Section 14-503 B. & C. of this ordinance. The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion,

sedimentation and pollution during all stages of any land-disturbing activity in accordance with requirements of this ordinance and the NPDES General Permit.

B. MINIMUM REQUIREMENTS/ BMPs

1. Best management practices as set forth in Section 14-503 B. & C. of this ordinance shall be required for all land-disturbing activities. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the Director or to any other allegation of noncompliance with paragraph (2) of this subsection or any substantially similar terms contained in a permit for the discharge of storm water issued pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act". As used in this subsection the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design specifications contained in the "Manual for Erosion and Sediment Control in Georgia" specified in O.C.G.A. 12-7-6 subsection (b).
 2. A discharge of storm water runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local Issuing Authority or of any state general permit issued by the Division pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act", for each day on which such discharge results in the turbidity of receiving waters being increased by more than twenty-five (25) nephelometric turbidity units for waters supporting warm water fisheries or by more than ten (10) nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the Director. This paragraph shall not apply to any land disturbance associated with the construction of single family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five (5) acres.
 3. Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a Local Issuing Authority or of any state general permit issued by the Division pursuant to subsection (f) of Code Section 12-5-30, the "Georgia Water Quality Control Act", for each day on which such failure occurs.
 4. The Director may require, in accordance with regulations adopted by the Board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land disturbing activities occur.
 5. The LIA may set more stringent buffer requirements than stated in C.15,16 and 17, in light of O.C.G.A. § 12-7-6 (c).
- C. The rules and regulations, ordinances, or resolutions adopted pursuant to O.C.G.A. 12-7-1 et. seq. for the purpose of governing land-disturbing activities shall require, as a minimum, protections at least as stringent as the state general permit; and best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the *Manual for Erosion and Sediment Control in Georgia* published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:

1. Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion;
2. Cut-fill operations must be kept to a minimum;
3. Development plans must conform to topography and soil type so as to create the lowest practicable erosion potential;
4. Whenever feasible, natural vegetation shall be retained, protected and supplemented;
5. The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;
6. Disturbed soil shall be stabilized as quickly as practicable;
7. Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;
8. Permanent vegetation and structural erosion control practices shall be installed as soon as practicable;
9. To the extent necessary, sediment in run-off water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. 12-7-1 et. seq.;
10. Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills;
11. Cuts and fills may not endanger adjoining property;
12. Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;
13. Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum;
14. Land-disturbing activity plans for erosion, sedimentation and pollution control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in Section 14-503 B. 2. of this ordinance;
15. Except as provided in paragraph (16) and (17) of this subsection, there is established a 25 foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the Director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the Director pursuant to O.C.G.A. 12-2-8, where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; or where bulkheads and sea walls are installed to prevent shoreline erosion on Lake Oconee and Lake Sinclair; or along any ephemeral stream. As used in this provision, the term 'ephemeral stream' means a stream: that under normal circumstances has water flowing only during and for a short duration after precipitation events; that has the channel located above the ground-water table year round; for which ground water is not a source of water; and for which runoff from precipitation is the primary source of water flow, Unless exempted as along an ephemeral stream, the buffers of at least 25 feet established pursuant to part 6 of Article 5, Chapter 5 of Title 12, the "Georgia Water Quality Control Act", shall remain in force unless a

variance is granted by the Director as provided in this paragraph. The following requirements shall apply to any such buffer:

- a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
 - b. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines; and
16. There is established a 50 foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as "trout streams" pursuant to Article 2 of Chapter 5 of Title 12, the "Georgia Water Quality Control Act", except where a roadway drainage structure must be constructed ; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less shall have a 25 foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the Board, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The Director may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such buffer:
- a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
 - b. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of

perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines; and

17. There is established a 25 foot buffer along coastal marshlands, as measured horizontally from the coastal marshland-upland interface, as determined in accordance with Chapter 5 of Title 12 of this title, the "Coastal Marshlands Protection Act of 1970." And the rules and regulations promulgated thereunder, except where the director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the director pursuant to Code Section 12-2-8, where an alteration within the buffer area has been authorized pursuant to Code Section 12-5-286, for maintenance of any currently serviceable structure, landscaping, or hardscaping, including bridges, roads, parking lots, golf courses, golf cart paths, retaining walls, bulkheads, and patios; provided, however, that if such maintenance requires any land-disturbing activity, adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented, where a drainage structure or roadway drainage structure is constructed or maintained; provided, however, that if such maintenance requires any land-disturbing activity, adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented, on the landward side of any currently serviceable shoreline stabilization structure, or for the maintenance of any manmade storm-water detention basin, golf course pond, or impoundment that is located entirely within the property of a single individual, partnership, or corporation; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented. For the purposes of this paragraph maintenance shall be defined as actions necessary or appropriate for retaining or restoring a currently serviceable improvement to the specified operable condition to achieve its maximum useful life. Maintenance includes emergency reconstruction of recently damaged parts of a currently serviceable structure so long as it occurs within a reasonable period of time after damage occurs. Maintenance does not include any modification that changes the character, scope or size of the original design and serviceable shall be defined as usable in its current state or with minor maintenance but not so degraded as to essentially require reconstruction.
 - a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat; and
 - b. The buffer shall not apply to crossings for utility lines that cause a width of disturbance of not more than 50 feet within the buffer, provided, however, that

- adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.
- c. The buffer shall not apply to any land-disturbing activity conducted pursuant to and in compliance with a valid and effective land-disturbing permit issued subsequent to April 22, 2014, and prior to December 31, 2015; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented or any lot for which the preliminary plat has been approved prior to December 31, 2015 if roadways, bridges, or water and sewer lines have been extended to such lot prior to the effective date of this Act and if the requirement to maintain a 25 foot buffer would consume at least 18 percent of the high ground of the platted lot otherwise available for development; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.
 - d. Activities where the area within the buffer is not more than 500 square feet or that have a "Minor Buffer Impact" as defined in 391-3-7-.01(r), provided that the total area of buffer impacts is less than 5,000 square feet are deemed to have an approved buffer variance by rule. Bank stabilization structures are not eligible for coverage under the variance by rule and notification shall be made to the Division at least 14 days prior to the commencement of land disturbing activities.
- D. Nothing contained in O.C.G.A. 12-7-1 et. seq. shall prevent any Local Issuing Authority from adopting rules and regulations, ordinances, or resolutions which contain stream buffer requirements that exceed the minimum requirements in Section 14-503 B. & C. of this ordinance.
- E. The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this ordinance or the terms of the permit.

Sec. 14-504 APPLICATION / PERMIT PROCESS

- A. GENERAL The property owner, developer and designated planners and engineers shall design and review before submittal the general development plans. The Local Issuing Authority shall review the tract to be developed and the area surrounding it. They shall consult the zoning ordinance, storm water management ordinance, subdivision ordinance, flood damage prevention ordinance, this ordinance, and any other ordinances, rules, regulations or permits, which regulate the development of land within the jurisdictional boundaries of the Local Issuing Authority. However, the owner and/or operator are the only parties who may obtain a permit.
- B. APPLICATION REQUIREMENTS
1. No person shall conduct any land-disturbing activity within the jurisdictional boundaries of the City of Stonecrest without first obtaining a permit from the Community Development Department to perform such activity and providing a copy of Notice of Intent submitted to EPD if applicable.
 2. The application for a permit shall be submitted to the Community Development Director, or his or her designee, and must include the applicant's erosion, sedimentation and

pollution control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in Section 14-504 C. of this ordinance. Erosion, sedimentation and pollution control plans, together with supporting data, must demonstrate affirmatively that the land disturbing activity proposed will be carried out in such a manner that the provisions of Section 14-503 B. & C. of this ordinance will be met. Applications for a permit will not be accepted unless accompanied by four (4) copies of the applicant's erosion, sedimentation and pollution control plans. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan in accordance with EPD Rule 391-3-7-.10.

3. In addition to the local permitting fees, fees will also be assessed pursuant to paragraph (5) subsection (a) of O.C.G.A. 12-5-23, provided that such fees shall not exceed \$80.00 per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to subsection (a) of O.C.G.A. 12-7-8 half of such fees levied shall be submitted to the Division; except that any and all fees due from an entity which is required to give notice pursuant to paragraph (9) or (10) of O.C.G.A. 12-7-17 shall be submitted in full to the Division, regardless of the existence of a Local Issuing Authority in the jurisdiction.
4. Immediately upon receipt of an application and plan for a permit, the Local Issuing Authority shall refer the application and plan to the District for its review and approval or disapproval concerning the adequacy of the erosion, sedimentation and pollution control plan. The District shall approve or disapprove a plan within 35 days of receipt. Failure of the District to act within 35 days shall be considered an approval of the pending plan. The results of the District review shall be forwarded to the Local Issuing Authority. No permit will be issued unless the plan has been approved by the District, and any variances required by Section 14-503 C. 15, 16 and 17 have been obtained, all fees have been paid, and bonding, if required as per Section 14-504 B.6., have been obtained. Such review will not be required if the Local Issuing Authority and the District have entered into an agreement which allows the Local Issuing Authority to conduct such review and approval of the plan without referring the application and plan to the District. The Local Issuing Authority with plan review authority shall approve or disapprove a revised Plan submittal within 35 days of receipt. Failure of the Local Issuing Authority with plan review authority to act within 35 days shall be considered an approval of the revised Plan submittal.
5. If a permit applicant has had two or more violations of previous permits, this ordinance section, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing the application under consideration, the Local Issuing Authority may deny the permit application.
6. The Local Issuing Authority may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, \$3,000.00 per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this section or with the conditions of the permit after issuance, the Local Issuing Authority

may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the Local Issuing Authority with respect to alleged permit violations.

C. PLAN REQUIREMENTS

1. Plans must be prepared to meet the minimum requirements as contained in Section 14-503 B. & C. of this ordinance, or through the use of more stringent, alternate design criteria which conform to sound conservation and engineering practices. The *Manual for Erosion and Sediment Control in Georgia* is hereby incorporated by reference into this ordinance. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and storm water management facilities, local ordinances and State laws. Maps, drawings and supportive computations shall bear the signature and seal of the certified design professional. Persons involved in land development design, review, permitting, construction, monitoring, or inspections or any land disturbing activity shall meet the education and training certification requirements, dependent on his or her level of involvement with the process, as developed by the Commission and in consultation with the Division and the Stakeholder Advisory Board created pursuant to O.C.G.A. 12-7-20.
2. Data Required for Site Plan shall include all the information required from the appropriate Erosion, Sedimentation and Pollution Control Plan Review Checklist established by the Commission as of January 1 of the year in which the land-disturbing activity was permitted.

D. PERMITS

1. Permits shall be issued or denied as soon as practicable but in any event not later than forty-five (45) days after receipt by the Local Issuing Authority of a completed application, providing variances and bonding are obtained, where necessary and all applicable fees have been paid prior to permit issuance. The permit shall include conditions under which the activity may be undertaken.
2. No permit shall be issued by the Local Issuing Authority unless the erosion, sedimentation and pollution control plan has been approved by the District and the Local Issuing Authority has affirmatively determined that the plan is in compliance with this ordinance, any variances required by Section 14-503 C. 15, 16 and 17 are obtained, bonding requirements, if necessary, as per Section 14-504 B. 6. are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the Local Issuing Authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
3. Any land-disturbing activities by a local issuing authority shall be subject to the same requirements of this ordinance, and any other ordinances relating to land development, as are applied to private persons and the division shall enforce such requirements upon the local issuing authority.

4. If the tract is to be developed in phases, then a separate permit shall be required for each phase.
5. The permit may be suspended, revoked, or modified by the Local Issuing Authority, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this ordinance. A holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.
6. The LIA may reject a permit application if the applicant has had two or more violations of previous permits or the Erosion and Sedimentation Act permit requirements within three years prior to the date of the application, in light of O.C.G.A. 12-7-7 (f) (1).

Sec. 14-505 INSPECTION AND ENFORCEMENT

- A. The Community Development Director, or his or her designee, will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. Also, the Local Issuing Authority shall regulate primary, secondary and tertiary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities. Tertiary permittees shall be responsible for installation and maintenance where the tertiary permittee is conducting land-disturbing activities. If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this ordinance, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this ordinance.
- B. The Local Issuing Authority must amend its ordinances to the extent appropriate within twelve (12) months of any amendments to the Erosion and Sedimentation Act of 1975.
- C. The Community Development Director, or his or her designee, shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.
- D. No person shall refuse entry or access to any authorized representative or agent of the Local Issuing Authority, the Commission, the District, or Division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.

- E. The District or the Commission or both shall semi-annually review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to O.C.G.A. 12-7-8 (a). The District or the Commission or both may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the county's or municipality's erosion, sedimentation and pollution control program. The District or the Commission shall notify the Division and request investigation by the Division if any deficient or ineffective local program is found.
- F. The Division may periodically review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to Code Section 12-7-8 (a). Such review may include, but shall not be limited to, review of the administration and enforcement of a governing authority's ordinance and review of conformance with an agreement, if any, between the district and the governing authority. If such review indicates that the governing authority of any county or municipality certified pursuant to O.C.G.A. 12-7-8 (a) has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. 12-7-7 (e), the Division shall notify the governing authority of the county or municipality in writing. The governing authority of any county or municipality so notified shall have 90 days within which to take the necessary corrective action to retain certification as a Local Issuing Authority. If the county or municipality does not take necessary corrective action within 90 days after notification by the division, the division shall revoke the certification of the county or municipality as a Local Issuing Authority.

Sec. 14-506 PENALTIES AND INCENTIVES

A. FAILURE TO OBTAIN A PERMIT FOR LAND-DISTURBING ACTIVITY

If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this ordinance without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the Local Issuing Authority.

B. STOP-WORK ORDERS

1. For the first and second violations of the provisions of this ordinance, the Director or the Local Issuing Authority shall issue a written warning to the violator. The violator shall have five days to correct the violation. If the violation is not corrected within five days, the Director or the Local Issuing Authority shall issue a stop-work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land-disturbing activities are conducted without obtaining the necessary permit, the Director or the Local Issuing Authority shall issue an immediate stop-work order in lieu of a warning;
2. For a third and each subsequent violation, the Director or the Local Issuing Authority shall issue an immediate stop-work order; and;
3. All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.
4. When a violation in the form of taking action without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the Local Issuing

Authority or by the Director or his or her Designee, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop work order shall be issued by the Local Issuing Authority or by the Director or his or her Designee. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.

- C. **BOND FORFEITURE** If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this ordinance and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of Section 14-504 B. 6. The Local Issuing Authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

D. **MONETARY PENALTIES**

1. Any person who violates any provisions of this ordinance, or any permit condition or limitation established pursuant to this ordinance, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the Director issued as provided in this ordinance shall be liable for a civil penalty not to exceed \$2,500.00 per day. For the purpose of enforcing the provisions of this ordinance, notwithstanding any provisions in any City charter to the contrary, municipal courts shall be authorized to impose penalty not to exceed \$2,500.00 for each violation. Notwithstanding any limitation of law as to penalties which can be assessed for violations of county ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this ordinance under county ordinances approved under this ordinance shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

Sec. 14-507 EDUCATION AND CERTIFICATION

- A. Persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the commission in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. 12-7-20.
- B. For each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is in responsible charge of erosion and sedimentation control activities on behalf of said entity or person and meets the applicable education or training certification requirements developed by the Commission present on site whenever land-

disturbing activities are conducted on that site. A project site shall herein be defined as any land-disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.

- C. Persons or entities involved in projects not requiring a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this ordinance.
- D. If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of paragraph (1) of subsection (b) of O.C.G.A. 12-7-19, then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified in paragraph (4) of subsection (b) of O.C.G.A. 12-7-19 and shall not be required to meet any educational requirements that exceed those specified in said paragraph.

Sec. 14-508 ADMINISTRATIVE APPEAL, JUDICIAL REVIEW

A. ADMINISTRATIVE REMEDIES

The suspension, revocation, modification or grant with condition of a permit by the Local Issuing Authority upon finding that the holder is not in compliance with the approved erosion, sediment and pollution control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to a hearing before the City Council within fifteen (15) days after receipt by the Local Issuing Authority of written notice of appeal.

B. JUDICIAL REVIEW

Any person, aggrieved by a decision or order of the Local Issuing Authority, after exhausting his administrative remedies, shall have the right to appeal denovo to the Superior Court of DeKalb County.

Sec. 14-509 EFFECTIVITY, VALIDITY AND LIABILITY

A. EFFECTIVITY

This ordinance shall become effective on the 7th day of August, 2017.

B. VALIDITY

If any section, paragraph, clause, phrase, or provision of this ordinance shall be adjudged invalid or held unconstitutional, such decisions shall not affect the remaining portions of this ordinance.

C. LIABILITY

1. Neither the approval of a plan under the provisions of this ordinance, nor the compliance with provisions of this ordinance shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the Local Issuing Authority or District for damage to any person or property.
2. The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this ordinance or the terms of the permit.

3. No provision of this ordinance shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and
4. regulations promulgated and approved thereunder or pollute any Waters of the State as defined thereby.

SECTION 2:

All references in Chapter 27 of the Code of the City of Stonecrest and Chapter 14 of the Code of DeKalb County, as applicable in the City of Stonecrest during the transition period, to requirements and procedures for soil erosion, sedimentation, and pollution control in the City of Stonecrest shall refer to the requirements and procedures of this Soil Erosion, Sedimentation and Pollution Control Ordinance. In the event Chapter 27 or Chapter 14 conflict with this ordinance, the requirements, procedures and language of the Soil Erosion, Sedimentation and Pollution Control Ordinance shall control.

SECTION 3:

The Community Development Director shall also refer to the Director of the planning department or the Director of Planning and Sustainability.

SECTION 4:

1. It is hereby declared to be the intention of the Mayor and City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the Mayor and City Council to be fully valid, enforceable and constitutional. Furthermore, Sections 14-27 through 14-38 and Sections 14-39 through 14-44.5 of Chapter 14, Article II of the DeKalb County Code of Ordinances are repealed, to the extent applicable within the City of Stonecrest during the transition period.
2. It is hereby declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.
3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and City Council that such invalidity, unconstitutionality, or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and

that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed.
5. The within ordinance shall become effective upon its adoption.
6. The provisions of this Ordinance shall become and be made part of The Code of the City of Stonecrest, Georgia, and the sections of this Ordinance may be renumbered to accomplish such intention.

SO RESOLVED AND EFFECTIVE this the ____th day of August, 2017.

Approved:

Jason Lary, Sr., Mayor

Thompson Kurrie, Jr., City Attorney

Attest:

Brenda James, Interim City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: An Ordinance for Article XIV, Section 15-Film Production

☐ **ORDINANCE** ☐ **POLICY** ☐ **STATUS REPORT**
☐ **DISCUSSION ONLY** ☐ **RESOLUTION** ☒ **OTHER**

Date Submitted: 09/25/2017 Work Session: 09/27/2017 Council Meeting: 10/02/2017

SUBMITTED BY: Sabrina Wright

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: First Read Only

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.

City means the City of Stonecrest.

Code means the City of Stonecrest, Georgia Code of Ordinances.

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 or her 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, 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.

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. Public property shall not include real property which is being leased by the city to a lessee.

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. The 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.

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 web-page and on-line permitting. While permits are required for entertainment industry work that occurs on public property only, the Department of Economic Development will be a resource and liaison for all entertainment industry work, including work that occurs on private property.

Sec. 15.14.4. - Permits for filming.

- (1) Any producer that wishes to perform filming must first obtain a filming permit. No filming permit is required unless the entertainment industry work is performed on public property.
- (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 element(s) 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 process 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 1-10 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.

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.

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) This section applies to the activities listed below only when they occur on public property. 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;
- (k) Filming in a city park; and
- (l) Use of wild animals controlled under federal, state, county, or city law and/or ordinances.

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 her/his school confirming that s/he is currently enrolled there. In addition, the student must appear in person and present her/his current student identification card and a valid driver's license. Where the student does not have a driver's license, s/he may present a different form of identification that includes her/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 applicant(s) in an attempt to find alternative times and/or locations that are acceptable.

- (3) There is no deadline by which a filming permit application must be submitted to the Department of Economic Development.
- (4) The Department of Economic Development shall compile and maintain rules and guidelines applicable to the use of public property 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 15.14.7(7), (8), (9) and (10) below.
 - 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 subsections 15.14.7(6)a., b., c., or d. above, the Department of Economic Development shall employ reasonable efforts to identify alternative filming locations, times and/or dates that eliminate the unacceptable condition(s) 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 15.14.7(6)c. above, 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 subsections 15.14.7(6)f. or g. above, 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 subsections 15.14.7(6)h., i. or j. above, 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 15.14.7(7), (8), (9) and/or (10) above and reasonably determines that one or more of the conditions set forth in subsection 15.14.7(6) 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 her/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 her/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.

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 code 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 15.14.7(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 15.14.8(3) below 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 issue(s). 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 issue(s). 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 issue(s).

- (d) Changes made to the permit pursuant to this subsection 15.14.8(3) shall not require payment of a change fee.
- (4) Where the director determines that the producer is violating material term(s) 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).

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 number (6) above 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 must 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 date(s), time(s), location(s) and activities that are authorized by the permit. Additionally, the director shall require that notification be given to the council member 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.

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 number (1) immediately above, 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.

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 15.14.11, 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 purposes of this article XIV, "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 15.14.11(2)c.(ii) above, 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 15.14.11(2)d.(ii) and (2)d.(iii) below, 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 15.14.11(2)c. above.

- (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.

- (3) *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, s/he shall be charged an on-site services fee only for the first three locations.

Secs. 15.14.12 —15.14.100. - Reserved.



CITY COUNCIL AGENDA ITEM

SUBJECT: Resolution for the Amazon Project

☐ **ORDINANCE** ☐ **POLICY** ☐ **STATUS REPORT**
☐ **DISCUSSION ONLY** ☐ **RESOLUTION** ☒ **OTHER**

Date Submitted: 09/25/2017 **Work Session:** 09/27/2017 **Council Meeting:** 10/02/2017

SUBMITTED BY: Mayor Lary/ Sabrina Wright

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: