



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

May 13 2019

7:00 p.m.

3120 Stonecrest Blvd. Suite 190

Stonecrest, Georgia

- I. CALL TO ORDER:** Mayor Jason Lary
- II. ROLL CALL:** Megan Reid, City Clerk
- III. INVOCATION**
- IV. PLEDGE OF ALLEGIANCE**
- V. AWARDS AND HONORS**
 - 1. Stonecrest Champion Award
- VI. APPROVAL OF THE COUNCIL AGENDA**
- VII. MINUTES:**
 - 1. Approval of the April 22, 2019 City Council Meeting Minutes
- VIII. PRESENTATIONS:**
 - 1. Introduction of new staff
 - a. Shakera Hall, Procurement Specialist
- IX. PUBLIC COMMENTS**

X. APPOINTMENTS:

1. East Metro DeKalb Community Improvement District Committee
 - a. Julian Jackson

XI. OLD BUSINESS:

1. Second Reading – Chapter 20 (Personnel)
2. Second Reading – Chapter 26 (Wreckers)

XII. NEW BUSINESS:

1. Parks & Recreation Landscaping, Maintenance, and Janitorial Service RFP# 2019-009
2. Panola Road Widening Project IGA
3. 2019 Fee Schedule for Parks & Recreation

XIII. PUBLIC HEARINGS:

XIV. EXECUTIVE SESSION:

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

XV. CITY MANAGER COMMENTS

XVI. CITY ATTORNEY COMMENTS

XVII. MAYOR AND COUNCIL COMMENTS

XVIII. ADJOURNMENT



CITY COUNCIL AGENDA ITEM

SUBJECT: APRIL 22, 2019 COUNCIL MEETING MINUTES

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

Council Meeting: 5/13/2019

SUBMITTED BY: MEGAN REID, CITY CLERK

PURPOSE: APPROVAL OF MINUTES

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: APPROVAL FROM MAYOR AND COUNCIL



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 MINUTES

April 22, 2019

7:00 p.m.

3120 Stonecrest Blvd. Suite 190

Stonecrest, Georgia

- I. CALL TO ORDER:** Mayor Jason Lary
- II. ROLL CALL:** All members were present
- III. INVOCATION:** Pastor Charles Bennafield, Greater Heights International Ministry at Historic Flat Rock Global Leadership Christian Center
- IV. PLEDGE OF ALLEGIANCE:**
- V. APPROVAL OF THE COUNCIL AGENDA:**

Mayor Lary asked to remove Section VII. Introductions B. Shakera Hall because she is out for training and to remove the First Reading of Chapter 13 (Health Regulations) as per the City Attorney and a memo will be provided.

Motion 1- was made by Council Member Rob Turner to approve the agenda with the changes as follows: remove Shakera Hall under Section VII- Presentations and remove Section XI. New Business Item Number 5. First Reading – Chapter 13 (Health Regulations) and Council Member Diane Adoma provided the second. **The motion passed unanimously.**

VI. MINUTES:

Motion 2- was made by Council Member George Turner to approve the Council meeting Minutes from February 25, 2019 with Corrections and Councilman Rob Turner provided the second.

The motion passed unanimously

Motion 3- was made by Council Member George Turner to approve the Council meeting Minutes from April 8, 2019 and Council Member Rob Turner provided the second.

Motion passed unanimously.

VII. PRESENTATIONS:

a. Mayor Lary introduced City Clerk Megan Reid to the Council and Citizens.

VIII. PUBLIC COMMENTS:

Faye Coffield – Cell Phone Tower Complaint and provided documentation to Mayor and Council that she received from DeKalb County Commissioner’s Office.

Rico Adams- Concerns about the change in staff at Browns Mill Recreation Department. Mayor Lary asked for Sean de Palma, Parks and Recreation Director, to review the upcoming changes to the department and he expressed that the changes would be beneficial to the residents of Stonecrest and would actually be an improvement going forward.

Geraldine Champion- Would like the City of Stonecrest to focus more on other parks such as Salem Road Park versus putting emphasis on Browns Mill Park because she feels it is a functioning park.

Bob Foster- Complaint about the Cell Phone Tower and directed questions to City Attorney Denmark and asked for a supplemental report citing case law.

Khari Lewis-Discussed 2 Matters General Process of Hearings for 6975 Browns Mill Walk and haven’t heard any response in 3 months.
Concerns about community development and would like to see the local residents of Stonecrest to support the local businesses.

S. Papasan Canty- Concerned that if the recreation Department is taken over by the City the College students may not have time to apply for those employment opportunities this summer with such a short deadline.

Dele Lowman Smith- Concerned about the Browns Mill Park transfer of ownership and services.

IX. APPOINTMENTS:

1. Housing Authority Members

Mayor Lary asked City Clerk Megan Reid to announce the Appointments made by the Council. The recommendations are as follow:

District 1- Jimmy Clanton- *Bill Bruckner*

District 2- Rob Turner- *Marty Garrison*

District 3- Jazzmin Cobble- *Diane Robinson*

District 4- George Turner- *Dennis Dae*

District 5- Diane Adoma- *Nathan Alexander*

Motion 4- was made by Mayor Jason Lary to appoint the Housing Authority Members as recommended by Council Members and Council Member Diane Adoma provided the second.

Council Member George Turner asked the Mayor why he was unable to provide an Appointment and Mayor Lary explained that his appointment would have to be done at a later date according to the way the ordinance reads.

Motion passed unanimously.

X. OLD BUSINESS:

1. Review Minor Changes to 2038 City of Stonecrest Comprehensive Plan – The Collaborative Firm

Planning and Zoning Director Mary Darby of The Collaborative Firm explained the 4 minor changes and included them in a presentation attached to the minutes and asked for the Council to approve the changes and allow her to resubmit to Department of Community Affairs and to the Atlanta Regional Commission for rereview.

Motion 5- was made by Council Member Council member Diane Adoma to authorize The Collaborative Firm to resubmit the updated Comprehensive Plan 2038 to Department of Community of Affairs and Atlanta Regional Commission and Council Member George Turner provided the second.

Motion passed unanimously.

2. Approve 2019 LMIG Resurfacing Project Contract with Blount Construction – Plez A. Joyner

After much discussion, Council Member Jazzmin Cobble noted a contradiction in Section 5 of the contract and asked for it to be corrected by the City Attorney.

Motion 6- was made by Mayor Jason Lary to approve the contract for Blount Construction in the amount of \$2,050,719.10 with amendments to Section 5 and a second was provided by Council Member Jimmy Clanton.

Motion passed unanimously

3. Approve & Award CEI (Construction Engineering and Inspections) Services Contract for 2019 LMIG Resurfacing Project to Southeastern Engineering – Plez A. Joyner

There was some discussion on what committee oversaw the bid process and there was question about receiving a full packet. Both issues were address by Deputy City Manager Plez Joyner, the SPLOST Oversight Committee reviewed the bids and the City Engineer vetted the proposal as for the packet the missing pages were from the original bid and the only page needed for the packet was page for which lists the bid amount of \$62,400.00.

Motion 7- was made by Council member Jimmy Clanton to approve the CEI Services Contract to Southeastern Engineering for \$62,400.00 and a second was provide by Council Member George Turner.

Council Member Jazzmin Cobble wanted clarification that the funding source for this project is LMIG and Deputy City Maanger Plez Joyner confirmed that the only funding source for this project is LMIG.

Motion passed unanimously.

4. Second Reading – Ordinance to create Chapter 5 (Animals)

Ordinance read aloud by Attorney Christa Freeman.

Council member Adoma asked the City Attorney to research “Dogs barking is prohibited during the hours of 11pm and 7am.

Motion 8- was made by Council Member Diane Adoma to approve the Chapter 5 animal Ordinance and include any and all revisions that DeKalb County has included and a second was provided by Council Member George Turner.

Motion passed unanimously.

5. Second Reading – Ordinance to create Chapter 17 (Motor Vehicles)

Read aloud by Attorney Christa Freeman.

Motion 9- was made by Council Member Rob Turner to approve Chapter 17 Motor Vehicles Ordinance include any and all revisions that DeKalb County has included and Council Member Diane Adoma provided the second.

Motion passed unanimously.

6. Second Reading – Ordinance to create Chapter 23 (Streets & Sidewalks)

Read aloud by Attorney Christa Freeman.

There was a brief discussion defining the ordinance and what it allows. Christa Freeman expressed that it would allow for the renaming of streets and input of traffic control devices.

Motion 10- was made by Council Member Rob Turner to approve Chapter 23 Streets and Sidewalks Ordinance include any and all revisions that DeKalb County has included and a second was provided by Council Member Diane Adoma.

Motion passed unanimously.

XI. NEW BUSINESS:

1. 2019 Community Block Grant (CDBG) – Julian Jackson

Interim city Manager Julian Jackson explained to the Council that he needed their approval to submit the application to be considered for a grant. If the City is awarded, he will bring the award letter back to Council for them to either accept or deny.

Motion 7- was made by Mayor Lary to support the submittal of the CDBG application and was seconded by Council Member Adoma.

Motion passed unanimously.

2. Parks and Recreation Intergovernmental Agreement

There was much discussion as to deadlines and procedures for Sean de Palma. Council Member Jazzmin Cobble expressed her concerns regarding the cost analysis.

Council Member Adoma asked to be put on record in saying that she read section 5.4 of the Agreement and it says the Parks and Recreation Director does not have the authority to direct the activities of any department of the park.

Christa Freeman, Attorney, asked to clarify that the section in question was referring to the time in which Dekalb County would still technically own the Park and Stonecrest employees would not be allowed to direct DeKalb County Employees.

Motion 11- was made by Council Member Jimmy Clanton to approve the IGA for Parks and recreation with the recent edits from DeKalb County and a second was provided by Mayor Jason Lary.

Motion passed. 5-1 with Council Member Adoma opposing.

3. Recommendation to contract with selected vendor for Youth Services (Summer Camp at Browns Mill Recreation Center) – Sean De Palma

After much discussion, Council Member Diane Adoma and Council Member Jazzmin Cobble spoke against the contract with the Youth Services (summer Camp at Browns Mill Recreation Center.) Both felt that they were not given adequate time to make a decision on the matter and felt that there may be some disadvantages to this service and would have preferred to have more information on the matter.

Council Member Clanton reassured the citizens that this discussion has been on going for over a year and that the City of Stonecrest needed to move forward.

Motion 12- was made by Mayor Jason Lary to approve the selected vendor Boys and Girls Club of Metro Atlanta to service the Youth Summer Camp at Browns Mill Park in the amount of \$83,583 and a second was provided by Council Member Jimmy Clanton .

Motion passed 4-2 with Council Member Diane Adoma and Council Member Jazzmin Cobble in opposition.

4. Recommendation to contract with selected vendor for Landscaping, Maintenance & Janitorial Services for Parks & Recreation (entire Stonecrest Parks System) – Sean De Palma- **NO ACTION TAKEN.**
5. **First Reading – Chapter 13 (Health Regulations)**
6. **First reading – Chapter20 (Personnel)**

Read aloud by Christa Freeman, Attorney.

There was discussion about how this would affect current Contract Employees of the City. The City Attorneys stated that this would be for future personnel.

7. **First reading – Chapter 26 (Wreckers)**

Read aloud by Christa Freeman, Attorney.

XII. PUBLIC HEARINGS:

1. RZ-19-001 Residential Rezoning (4001-3989 Panola Road)

Motion 13- was made by Council member George Turner to accept the withdrawal of application requested by applicant for RZ-19-001 and a second was provided by Council member Diane Adoma.

Motion passed unanimously.

2. RZ-19-002 Residential Rezoning (3606 Dogwood Pass/8078 White Oak)

Nicole Dozier, Community Development Department Director, gave the Council the recommendation from the Planning and Zoning Board to approve the application as submitted.

Motion 14- was made by Council member Jimmy Clanton to open the Public Hearing. A second was provided by Council member Rob Turner.

Motion passed unanimously.

Applicant's representative Michele Battle was available for questions from Mayor and Council.

No other public comments were made.

Motion 15- was made by Council member Jimmy Clanton to close the Public Hearing. A second was provided by Council member Rob Turner.

Motion passed unanimously.

Motion 16- was made by Council Member Jimmy Clanton to approve the rezoning application RZ-19-002 as recommended by the Planning and Zoning Commission and a second was provided by Council Member Diane Adoma.

Motion passed unanimously.

3. RZ-19-004 Residential Rezoning Request (Creekwood Conservation Subdivision)

Nicole Dozier, Community Development Department Director, gave the Council the recommendation from the Planning and Zoning Board to approve the application as submitted.

Motion 17- was made by Council Member George Turner to open the Public Hearing. A second was provided by Council member Diane Adoma.

Motion passed unanimously.

Applicant's representative Michele Battle was available for questions from Mayor and Council.

Johnny Waits spoke in favor of the rezone.

Mera Cazdena spoke in favor of the rezone.

There was no comment from the public in opposition of the rezone.

Motion 18- was made by Council Member George Turner to close the Public Hearing. A second was provided by Council Member Jimmy Clanton.

Motion passed unanimously.

Motion 19- was made by Council Member George Turner to approve the rezoning application RZ-19-004 as recommended by the Planning and Zoning Commission and a second was provided by Council Member Rob Turner.

Motion passed unanimously.

4. SLUP 19-001 Personal Care Home (3317 Panola Road)

Nicole Dozier, Community Development Department Director, gave the Council the recommendation from the Planning and Zoning Board to deny the application and to refer to the report submitted by staff.

Council member Jazzmin Cobble asked to defer do to unclarity of whether or not the proposed Personal Home Care lot was adjacent to another Personal Home Care with all the proper zoning and approval from the State of Georgia since Personal care homes cannot be within 1000 ft of one another and this was the reason for denial.

Motion 20- was made by Mayor Jason Lary to open the Public Hearing. A second was provided by Council member Rob Turner.

Motion passed unanimously.

Applicant Dileane Matthews was available for questions from Mayor and Council. She explained her reason for wanting to have a Personal Care Home for seniors.

Khari Lewis spoke in favor of the rezone.

Barbara Lee spoke in opposition of the rezone.

Motion 21- was made by Council Member Rob Turner to close the Public Hearing. A second was provided by Council Member Diane Adoma.

Motion passed unanimously.

Motion 22- was made by Council Member Jazzmin Cobble to defer this application to the next Council meeting and a second was provided by Council Member George Turner.

Motion passed unanimously.

XIII. EXECUTIVE SESSION: None required

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

XIV. CITY MANAGER COMMENTS:

Thanked Mayor and Council for their direction and looking forward to working together.

XV. CITY ATTORNEY COMMENTS:

None.

XVI. MAYOR AND COUNCIL COMMENTS:

Council member Diane Adoma has upcoming events including, a Meeting at the Start Up Factory that will include BB&T to help small business owners with financing options. May 21 there will be a Town Hall Meeting. The 100 Women project is going in full force. She thanked City Manager Julian Jackson and City Clerk Megan Reid.

Mayor Lary stated “Be successful Easy or Hard!” He would like everyone to work as a collaborative team..

XVII. ADJOURNMENT:

Motion 23- was made by Council Member Jazzmin Cobble to adjourn the Council meeting at 11:15pm and a second was provided by Council Member Rob Turner.
Motion passed unanimously.

Read and adopted in the regular meeting of the City Council held on this _____ day of _____, 2019.

Mayor Jason Lary

ATTEST:

Megan P. Reid, City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: East Metro Dekalb Community Improvement District Committee

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

Council Meeting: 5/13/2019

SUBMITTED BY: MAYOR JASON LARY

PURPOSE: APPOINTMENT TO COMMITTEE

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: APPOINTMENT OF JULIAN JACKSON



CITY COUNCIL AGENDA ITEM

SUBJECT: Chapter 20 Personnel Ordinance

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

Council Meeting: 5/13/2019

SUBMITTED BY: CITY ATTORNEY WINSTON DENMARK

PURPOSE: 2ND READING

HISTORY: 1ST READING ON 4-22-2019

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: APPROVAL OF ORDINANCE

**AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA ADOPTING
CHAPTER 20 (PERSONNEL) OF THE CITY CODE.**

WHEREAS, the City of Stonecrest, Georgia Mayor and City Council are authorized by the City Charter to provide for the general health, safety and welfare of the citizens of the City; and

WHEREAS, the Mayor and City Council find it to benefit the welfare of the citizens to adopt regulations governing personnel matters that substantially mirror DeKalb County's existing regulations; and

WHEREAS, this Ordinance shall be adopted as part of the City of Stonecrest City Code, as Chapter 20 (Personnel).

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 "Chapter 20. Personnel" to read and be codified as follows:

CHAPTER 20. Personnel.

ARTICLE I. IN GENERAL

Sec. 20-1. Definitions.

For the purposes of this Chapter, certain terms and words are hereby defined. Where words or terms are not herein defined, but are defined in any other applicable sections of this Code or state law, now and as they may be amended hereafter, those words shall have the meaning as defined therein. As used in this Chapter, unless the context otherwise indicates, the following words and terms shall have the meaning ascribed to them:

Act or the *Act* or *merit system act* means Georgia Laws, 1956, p. 3111 [App. B, § 1052 et seq.], as amended.

Allocation means assignment of a pay grade to a class of positions.

38 *Appeal* means a request by an employee to have a hearing
39 pursuant to this chapter.

40 *Applicant* means any person who has filed an application in
41 accordance with this chapter.

42 *Appointment* means the employment of an applicant for City
43 service.

44 *Available* means an individual on a register for a class of
45 positions willing to accept appointment to a particular position of that
46 class.

47 *Base rate of pay* means that salary paid an employee excluding
48 any incentive, longevity or other compensation.

49 *Certification* means referring a list of names of qualified
50 applicants for appointment or promotion.

51 *Class* means a group of positions sufficiently similar as to the
52 duties performed, degree of supervision exercised or required, minimum
53 requirements of training, experience and such other characteristics that
54 the same title, the same tests of fitness, and the same schedule of
55 compensation may be applied to each position in the group; and which
56 has been recognized as such in the classification plan approved.

57 *Classified service* means all positions under the merit system.
58 Each position is assigned to a classification and carries that specific job
59 code and an individual position number. Exempt positions are not in the
60 classified service.

61 *Compensatory time* means that time which may be granted an
62 employee as off time as compensation for time worked in excess of the
63 standard workweek applicable to that employee.

64 *Council* means the merit system council.

65 *Demotion* means the reduction of a permanent or working test
66 employee to a position of a lower class. For this purpose, a lower class
67 means any class of positions having a maximum rate of pay lower than

the maximum rate of pay for the position in which the individual is employed.

Department means the internal administrative unit established by formal action of the Mayor and City Council.

Department head means any city employee designated as the head or principal administrative officer of any department subject to the provisions of this chapter. This includes the chief executive who shall be considered the department head of department heads under the merit system.

Director means the director of the merit system and personnel administration department.

Disciplinary action means action taken for cause by the chief executive officer or department head that results in suspension, involuntary demotion or dismissal.

Eligible means an individual whose name appears on a register for a particular class of positions and who is not otherwise barred from consideration for appointment.

Emergency appointment means employment to fill an immediate need, and that regular appointment methods cannot be followed.

Employee means an incumbent of a position, as hereinafter defined.

Examination means the designated method of evaluating the knowledge, skills and abilities of applicants for purposes of ranking and selection. Such methods could include, but not limited to, written tests, oral interviews, evaluations of education and experience, etc.

Exempt position means a position designated as being exempt from the application of this chapter.

Merit system means the city merit system of personnel administration of employees covered under the act.

97 *Minimum qualifications* mean those training, experience and
98 other requirements that qualify an applicant or employee to be
99 considered for examination and appointment.

100 *Overtime* means time wherein an employee is directed to continue
101 work in excess of the standard workweek for that position, as hereinafter
102 defined.

103 *Part-time employee* means any employee working on a
104 continuous basis at least twenty (20) hours but less than the standard
105 workweek, as hereinafter defined.

106 *Permanent status employee* means an employee who has
107 successfully completed his or her probationary period and has been
108 designated a permanent status employee by the department head and
109 approved by the merit system director.

110 *Position* means the duties, tasks and responsibilities which
111 comprise and constitute the work of an employee.

112 *Probation* means conditional employment; not regular; a trial or
113 working test period.

114 *Promotion* means the filling of a vacancy by appointing an
115 employee with permanent status to a position from a position of a lower
116 class.

117 *Protected classes* means minorities, females, handicapped, older
118 workers, and other classes designated by federal or state law for special
119 employment consideration.

120 *Public hearings* means a meeting of the merit system council
121 open to the public, held after at least five (5) days' notice has been given
122 thereof, at which time any interested party may appear and be heard.

123 *Public notice*, unless otherwise expressly stated, means a written
124 notice on a bulletin board accessible to the public during business hours,
125 and other publicity as may be deemed necessary by the merit system
126 council.

127 *Qualifying service* means all periods of city employment during
128 which an employee was eligible to accrue annual leave under this
129 chapter.

130 *Reallocation* means change in the pay grade assignment of a class
131 of positions.

132 *Reduction in force* means the termination of an employee due to
133 lack of work, lack of funds, abolishment of position, or for other material
134 changes in duties or organization, or appropriation of funds.

135 *Register* means an official list of persons who have successfully
136 competed in a merit system examination for a particular class of
137 positions.

138 *Roster of employees* means a listing of employees of the city
139 government which sets forth the name of each employee, the department
140 by which the employee is employed, the class title of the position held
141 by the employee, and the salary range assigned to the class title of the
142 position held by the employee.

143 *Salary adjustment* means any change in salary, resulting from
144 legislative or administrative action, and not constituting a salary
145 advancement, as hereinafter defined.

146 *Salary advancement* means an increase in salary based on merit
147 and length of service within the salary range prescribed for a particular
148 class of positions.

149 *Standard workweek* means that number of hours constituting the
150 full working time for a class of positions, as determined by a department
151 head and as approved by the Mayor and City Council.

152 *Standby time* means that time when employees are required to
153 leave work at their homes or with departmental officials where they may
154 be reached in case of an off-duty call-out.

155 *Temporary position* means a position created for a designated
156 period of time not to exceed six (6) months.

Time-limited appointment means employment to fill a position for a period of time designated by programs authorized by Congress or the state legislature.

Transfer means the filling of a vacancy by assigning a permanent or working test employee from another position of the same or a comparable class.

Vacancy means an unoccupied position that has been established through a job analysis and official delegation of duties, which has been properly allocated and adopted as part of the classification and pay plans, and for which funds are available.

Waiting time means that period of inactivity while on duty spent waiting for weather conditions to improve or contingency assignments to be made.

Sec. 20-2. Penalties for violation.

Any employee under the merit system who willfully violates any of the provisions of this chapter may be disciplined hereunder or may be required to forfeit the employee's position, subject to the appeals guidelines as set forth in article IX of this chapter.

Sec. 20-3. Applicability.

All positions, other than those exempt positions under this chapter or law, shall be filled only in accordance with this chapter. All departments under the merit system, as provided herein, shall administer their personnel in accordance with this chapter. All positions, except those listed as exempt, shall be collectively known as the classified service. Nothing in this chapter shall be construed to conflict with any state law or regulation that provides additional qualifications, duties or compensation levels of any employee who is also subject to the provisions of this chapter.

Sec. 20-4. Exempt positions designated.

The provisions of this chapter shall not apply to any exempt position. The exempt positions are the following:

(1) Generally.

- a. City Manager
- b. Deputy City Manager
- c. City Clerk
- d. Community Development Director
- e. City Planner
- f. Code Enforcement Supervisor
- g. Chief Building Official
- h. Accounting Manager
- i. Procurement Specialist
- j. Communications Director

(2) Appointed official.

- a. Members of appointed city agencies, boards, commissions, and councils and the employees of the offices.

Sec. 20-5. Reserved.

Sec. 20-6. Duties of merit system and personnel administration director.

The duties of the merit system director shall be to:

- (1) Attend all meetings of the merit system council and act as secretary to the council.
- (2) Establish and maintain a listing of all employees of the board of commissioners, including merit and non-merit, which will set forth the names of employees, their class titles, their pay grades, their salaries or pay statuses, their employment statuses and other appropriate data deemed pertinent by the director.

- 216 (3) Select a staff of assistants in accordance with this chapter and to
217 assign and direct their work.
- 218 (4) Advise and consult with the department heads in the development of
219 a variety of training programs to improve performance of
220 employees at all levels as needed and to coordinate the planning and
221 scheduling of such training programs for efficient administration.
- 222 (5) Assist the department heads in the development of a system of
223 periodic performance appraisal of employees under the merit
224 system to be administered by the department heads.
- 225 (6) Make annual reports and such special reports as deemed advisable
226 regarding personnel administration under the merit system, and to
227 make recommendations for improvement therein.
- 228 (7) Be responsible for the preparation and maintenance of the
229 classification and compensation plans and, after consultation with
230 department heads, to prepare and present to the board for adoption,
231 class specifications and amendments thereto.
- 232 (8) Recommend amendments to this chapter and to cause all rules and
233 regulations to be published and copies thereof to be given to the
234 department heads and the board, and to maintain copies in the office
235 of the merit system department.
- 236 (9) Prepare for review and approval by the chief executive, job
237 classification and compensation, administrative procedures to be
238 followed by employees, department heads and other officials in
239 processing appeals and in carrying out other assigned
240 responsibilities under this chapter.
- 241 (10) Prepare annual budgets covering all the costs of operating the merit
242 system, for adoption by the board.
- 243 (11) Maintain all registers of eligible persons for appointment and to
244 make certification from such registers.

(12) Act as custodian of all records and properties in the office of the merit system director.

(13) Make such regulations and other administrative memoranda as deemed necessary, not inconsistent with this chapter, relative to matters involved in the administration of this chapter.

(14) Be responsible for overseeing an equitable and uniform system of discipline, administering the internal grievance and appeal procedure and maintaining the centralized records and coordinating the activities associated with appeals.

Sec. 20-7. Adoption of rules, regulations.

The chief executive shall adopt uniform rules and regulations pertaining to city recruitment activities, applications for examination, qualifications of applicants, administration of examinations, and all other matters necessary to accomplish the purpose of this chapter.

Sec. 20-8. Minutes of merit system council.

The date, time and place of each meeting of the merit system council, names of the councilmembers present, all official acts of the council and the votes of each member except when the acts are unanimous and, when requested, a councilmember's approval or dissent, with the reasons, shall be recorded in the minutes. The director shall cause the minutes to be prepared and presented to the council for approval or amendment. The adopted minutes, or a true copy thereof, certified by the director, shall be open to public inspection, and copies of pertinent sections thereof made available upon request to any department head or employee affected thereby.

Sec. 20-9. Record of appeal hearings.

A verbatim account of an appeal hearing will not be transcribed, unless requested by one (1) of the parties, and paid for by the requesting party. Either party shall have the right to have the proceedings recorded by a court reporter at the party's own expense.

Sec. 20-10. Public records, confidential records.

All merit system documents, records and information are the property of Stonecrest, Georgia and shall remain confidential except when disclosure is required by the Georgia Open Records Act or other law.

Sec. 20-11. Access to records.

The director shall have access to all departmental personnel records, documents and papers in order to discharge the director's duties. The department heads shall have access to such records as deemed pertinent by the director to their department and the discharge of their duties. Performance rating reports shall be accessible to the department head concerned, the director, the merit system council, the Mayor and City Council and the employee involved. Such performance reports may be reviewed by other individuals only for official purposes on a need-to-know basis at the discretion of the director. The merit system council shall have access to all records necessary to discharge its duties. Other personnel information may be made available for official purposes at the discretion of the director. Information which is obtained by employees in the course of their official duties shall not be released or made available to anyone other than employees charged with this responsibility as part of their official duties.

Sec. 20-12. Preservation of records.

(a) The following records shall be preserved in the offices of the merit system for the periods designated:

- (1) Examination and testing records of appointees shall be kept permanently. Examination and testing records of other applicants shall be kept for one (1) year.
- (2) Registers of certified eligibles shall be kept for one (1) year after expiration.
- (3) A copy of each test form used and validation procedures employed shall be retained permanently.

(4) All other records related to examination and eligible lists, including correspondence, applications and examination papers, shall be kept for one (1) year.

(5) The employee's permanent personnel file shall be purged each three (3) years to remove appraisals and other documents related to performance, disciplinary actions and other materials over three (3) years of age which are no longer needed in the operation of the merit system.

(6) Personnel files of terminated employees shall be kept for three (3) years.

(b) The above retention periods may be extended if required by federal or state law.

(c) Records may be preserved in their original form or other duplicate form such as microfilm, at the discretion of the director.

Sec. 20-13. Position classification plan.

(a) The classification plan provides a systematic arrangement and inventory of the positions in the classified service. The plan groups the various positions into classes with an appropriate title indicative of the range of duties and responsibilities, and the types of work performed.

(b) The chief executive shall adopt rules and regulations for the implementation and administration of the classification plan within the budget approved by the Mayor and City Council.

Sec. 20-14. Maintenance of registers.

The chief executive shall adopt uniform rules and regulations pertaining to the maintenance of registers, including procedures for determining the adequacy of existing registers, the frequency of announcements of vacancies or examinations, the abolishment of registers, and the establishment of registers.

Sec. 20-15. Fillings of vacancies.

All vacancies under the merit system must be filled either by probationary appointment, promotion, demotion, transfer, emergency appointment,

reappointment, temporary appointment or part-time appointment. No vacancy may be filled until a valid requisition is received by the director from a department head.

Sec. 20-16. Equal opportunity employment.

(a) The city is an equal opportunity employer. This effort will be an ongoing process. For affirmative action purposes, the director, in conjunction with the affirmative action officer, may institute voluntary programs that will facilitate this purpose and implement programs approved by the Mayor and City Council.

(b) There shall be no discrimination against applicants or employees on the basis of race, color, religion, sex, national origin, political affiliation or opinion, age, handicap or other non-merit factors with regard to appointment, promotion, demotion, dismissal, discipline, training or any other aspect of personnel administration. This shall not prevent the application of a particular requirement factor that is a bona fide occupational qualification.

Sec. 20-17. Political activities.

(a) No person shall seek or attempt to use any political endorsement in connection with any appointment to a position under the merit system.

(b) No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position under the merit system, or an increase in pay or any other advantage in employment in this position for the purpose of influencing the vote or political action of any person, or for any consideration.

(c) No employee under the merit system shall be a candidate for nomination or election to any elective public office, or take part in the management or

affairs of any political campaign, except to exercise the right as a citizen to express an opinion privately and to cast a vote.

- (d) Employees whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a federal agency are subject to the provisions of the Hatch Act.

Sec. 20-18. Political soliciting.

No employee under the merit system shall solicit or take part in soliciting any assessment, subscription or contribution for any political organization or purpose. Employees may make voluntary financial contributions to a political party or organization or candidate.

Sec. 20-19. Persons advocating overthrow of government prohibited from employment.

No person shall be employed under the merit system who advocates or has ever advocated, or who is or who ever has been a member of any organization that advocates the overthrow of the government of the United States by force or violence.

Sec. 20-20. Conflicts of interest.

- (a) No employee covered by the provision of this chapter shall:

- (1) Engage in any business or transaction or have a financial interest or other personal interest, direct or indirect, which is incompatible with the proper discharge of official duties or which would tend to impair independence of judgment or action in the performance of official duties;
- (2) Engage in or accept private employment or render services for a private interest when such employment or service is incompatible with the proper discharge of official city duties or would tend to impair independence of judgment or action in the performance of official duties;
- (3) Disclose confidential information concerning the property, governmental body or affairs of the city without proper legal

- 392 authorization, or use such information to advance the employee's
393 financial or other private interests or that of others;
- 394 (4) Participate in the negotiation or the making of any contract with any
395 business or entity in which the employee has a financial interest.
- 396 (5) Solicit contributions from another employee for a gift or donation to
397 an employee or elected official in a superior official position, or, if in
398 a superior position, accept a gift presented as a contribution from an
399 employee.
- 400 (6) Directly or indirectly solicit or accept any gift from a prohibited
401 source or any gift given because of the employee's official position.
- 402 (7) Directly or indirectly give, offer, promise, demand, seek, receive,
403 accept, or agree to receive anything of value to influence any
404 official act.
- 405 (8) Except as provided by law for the proper discharge of official duties,
406 directly or indirectly, give, offer promise, demand, seek, receive,
407 accept, or agree to accept anything of value for or because of any
408 official act performed or to be performed, or for or because of any
409 testimony given or to be given before an individual or other entity,
410 tribunal or proceeding authorized to hear evidence or take
411 testimony.
- 412 (9) Accept gifts from the same or different sources on a basis so
413 frequent that a reasonable person would be led to believe the
414 employee is using his/her public office for private gain.
- 415 (10) Accept a gift in violation of any local, state or federal statute.
- 416 (11) Accept vendor promotional training contrary to applicable
417 regulations, policies or guidance relating to the procurement of
418 supplies and services for the county.
- 419 (b) No employee shall receive any compensation, salary or supplementation of
420 his/her city salary, from any entity other than the city or as may be

contributed by law out of the treasury of any state, county, or municipality,
for his/her services to the city.

(c) No employee shall by his or her conduct give reasonable basis for the
impression that any person can improperly influence him or her or unduly
enjoy his or her favor in the performance of official acts or actions or that
he or she is affected unduly by the kinship, rank, position or association
with any person.

(d) No employee shall by virtue of his or her position with the city, directly or
indirectly attempt to influence the decision of any city employee who must
act to further any city procurement, policy, regulation, inspection or
transaction.

(e) No employee shall engage in or accept employment with or render services
for any private business or professional activity when such is adverse to and
incompatible with the proper discharge of his or her official duties.

(f) Employees shall not knowingly solicit or make solicited sales to other
employees who are junior in classification or position, or to the family
members of such employees, within or without work hours. In the absence
of coercion or intimidation, this does not prohibit the sale or lease of an
employee's noncommercial personal or real property or commercial sales
solicited and made in a retail establishment during non-working hours. This
prohibition includes, without limitation, the solicited sale of insurance,
stocks, mutual funds, real estate, cosmetics, household supplies, vitamins,
and other goods or services. Both the act of soliciting and the act of selling
as a result of soliciting are prohibited. In both cases, however, a solicitation
is necessary for a violation to occur. While the standard prohibits a superior
from making a solicited sale to a subordinate or to the subordinate's family,
sales made because a subordinate approaches the superior and requests the
sale to be made are not prohibited, absent coercion or intimidation by the
superior. The posting of an advertisement in accordance with county
policies does not constitute solicitation for purposes of this subsection.

(g) Where an employee knows that a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interest of a member of his/her household, or knows that a person with whom he/she has a covered relationship is or represents a party to such a matter, and where the circumstances would cause a reasonable person with knowledge of the relevant facts to question his/her impartiality in the matter, the employee should not participate in the matter.

(h) An employee shall be disqualified for two (2) years from participating in any particular matter in which a former employer is a party or represents a party. The two-year period of disqualification begins to run on the date the employee left the employ of the former employer.

(i) An employee may accept unsolicited gifts from a person or entity other than a prohibited source, having an aggregate market value of forty dollars (\$40.00) or less per source per occasion, provided that the aggregate market value of individual gifts received from any one source under the authority of this paragraph shall not exceed one hundred twenty dollars (\$120.00) in a calendar year.

(j) Definitions.

1) *Covered relationship.* An employee has a covered relationship with:

- a. A person with whom the employee has or seeks a business, contractual or other financial relationship that involves other than a routine consumer transaction;
- b. A person who is a member of the employee's household, or who is within the third degree of relationship with of the employee;
- c. A person for whom the employee's spouse, parent or child is serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee;

d. Any person for whom the employee has, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; or

e. An organization, other than a political party, in which the employee is an active participant.

2) *Direct and predictable effect* means a particular matter will have a direct effect if there is a close causal link between any decision or action to be taken in the matter and any effect on a financial interest. An effect may be direct even though it does not occur immediately. A particular matter will not have a direct effect on a financial interest, however, if the chain of causation is contingent upon the occurrence of events that are speculative or that are independent of, and unrelated to, the matter. A particular matter will have a predictable effect if there is a real, as opposed to a speculative, possibility that the matter will affect a financial interest. It is not necessary, however, that the magnitude of the gain or loss be known, and the dollar amount of the gain or loss is immaterial.

3) *Former employer* includes any person or entity which the employee served as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee.

4) *Gift* includes any gratuity, favor, discount, entertainment, trip, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of training, transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred. A gift does not include:

a. Modest items of prepared food and refreshments, such as soft drinks, or coffee and donuts, offered other than as part of a meal;

- b. Greeting cards and items with little intrinsic value, such as plaques, certificates, and trophies, which are intended solely for presentation;
- c. Loans from banks and other financial institutions on terms generally available to the public;
- d. Social invitations from persons or entities, other than prohibited sources. An employee may accept food, refreshments and entertainment, not including travel or lodgings, at a social event attended by several persons where the invitation is from a person or entity that is not a prohibited source and no fee is charged to any person in attendance.
- 5) *Imputed interests* means the financial interests of the following persons will serve to disqualify an employee to the same extent as if they were the employee's own interests:
- a. The employee's spouse/domestic partner;
- b. The employee's child;
- c. An organization or entity which the employee or his/her spouse serves as officer, director, trustee, general partner or employee; and
- d. A person with whom the employee is negotiating for or has an arrangement concerning prospective employment.
- 6) *Market value* means the retail cost the employee would incur to purchase the gift. An employee who cannot ascertain the market value of a gift may estimate its market value by reference to the retail cost of similar items of like quality. The market value of a gift of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit shall be the face value of the ticket.
- 7) *Particular matter* encompasses only matters that involve deliberation, decision, or action that is focused upon the interests of specific persons, or a discrete and identifiable class of persons. The

particular matters covered by this subpart include, but are not limited to, a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation or arrest.

8) *Personal and substantial* means the direct and active supervision of the participation of a subordinate in the matter. To participate substantially means that the employee's involvement is of significance to the matter. Participation may be substantial even though it is not determinative of the outcome of the particular matter. However, it requires more than official responsibility, knowledge, perfunctory involvement, or involvement on administrative or peripheral issues. A finding of substantiality should be based not only on the effort devoted to a matter, but also on the importance of the effort.

9) *Prohibited source* means any person or entity who:

- a. Is seeking official action by the employee or the employee's department;
- b. Does business or seeks to do business with the city or the employee's department;
- c. Conducts activities regulated by the employee or the employee's department;
- d. Has interests that may be substantially affected by performance or nonperformance of the employee's official duties; or
- e. Is an organization having a majority of its members as described in paragraphs (j)(9)a. through d. of this section.

10) A gift is *solicited or accepted* because of the employee's official position if it is from a person other than an employee and would not have been solicited, offered, or given had the employee not held the status, authority or duties associated with his/her county

position. A gift which is solicited or accepted indirectly includes a gift:

- a. Given with the employee's knowledge and acquiescence to his/her parent, sibling, spouse, child (included adopted and step-children), or dependent relative because of that person's relationship to the employee, or
- b. Given to any other person, including any charitable organization, on the basis of designation, recommendation, or other specification by the employee.

11) *Third degree of relationship.* The following persons are relatives within the third degree of relationship: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew or niece.

(12) *Vendor promotional training* means training provided by any person or entity for the purpose of promoting its products or services. It does not include training provided under a county contract or by a contractor to facilitate use of products or services it furnishes under a city contract.

(h) Any employee who violates the provision of this section shall be guilty of misconduct and subject to appropriate disciplinary action, including immediate dismissal.

Sec. 20-20.1. Financial disclosure reports.

The mayor, member of city council, city manager, assistant city manager, city clerk, department heads, deputy, assistant and associate department heads/directors and economic development department personnel, shall file annually with the city clerk a report disclosing the sources of any income, whatever its nature, in excess of one thousand dollars (\$1,000.00) derived from any one (1) source for the proceeding calendar year. Such report shall be filed on or before April 30 of each year for the prior calendar year in a format determined by the director of finance. Failure of any such person to file such disclosure

statement shall be reflected in the minutes of the next regularly scheduled meeting of the board of commissioners following the April 30 deadline, with a copy of the list of such persons presented to the chairperson of the Stonecrest Ethics Committee for appropriate action. The reports shall be considered public documents upon filing. Each report shall contain the following information:

(1) The source of each of the following items received or accrued during the preceding calendar year by such person reporting or his/her spouse, including the name and address of the source:

a. Any income for services rendered of one thousand dollars (\$1,000.00) or more;

b. Any interest or dividend income of one thousand dollars (\$1,000.00) or more;

c. Reimbursement for expenses of one thousand dollars (\$1,000.00) or more in each instance;

d. Honoraria from a single source in the aggregate amount of five hundred dollars (\$500.00) or more, except as otherwise reported under the state statute covering financial disclosure statements;

e. Any gift in the aggregate amount or value of five hundred dollars (\$500.00) or more from any single source received during the preceding year.

(2) The name, address and type of organization in which the person reporting or his/her spouse is an officer, director, partner, proprietor, or employee, or serves in any advisory capacity from which income of one thousand dollars (\$1,000.00) or more was derived.

(3) Each creditor, including the name and address, to whom the person reporting or his/her spouse was indebted for a period of ninety (90) consecutive days or more during the preceding calendar year in an amount of seven thousand five hundred dollars (\$7,500.00) or more, except for retail installment debt, or the purchase or sale or real property.

- (4) Failure to file a financial disclosure report, as required by this section, may result in the referral of such violation to the Stonecrest Ethics Committee for punitive action, or may result in disciplinary action, including dismissal.

Sec. 20-21. Disposition of special fees and rewards.

Special fees and rewards received by any employee by reason of the performance of any act required of such employee by the city and such employee's duties, whether paid by an individual or by a public authority, shall be deemed the property of the city and no employee shall accept for private use and benefit this fee or reward.

Sec. 20-22. Full-time service; outside employment.

The city shall be entitled to the full-time services of all employees whose positions are on a full-time basis. All outside employment must be approved in advance by the department head. No outside employment which interferes with the employee's scheduled city work time shall be allowed, nor shall any outside employment be allowed which may create a conflict, or apparent conflict, between private interest of the individual and official city duties and responsibilities.

Sec. 20-23. Physical examination.

Before entering employment and as often as the head of the department may deem necessary for the performance of work assigned, an applicant or employee shall undergo a physical examination by a licensed physician to determine the physical fitness of the employee for the job sought or duty assigned. Such examination shall be paid for by the city. The standard of physical fitness requirements related to job duty shall be established by each department head with due consideration given to the duties to be performed. Before becoming effective, such physical standards shall be submitted to and approved by the director and shall be furnished to the physician conducting the physical examination. No otherwise qualified handicapped individual shall be excluded from city employment solely by reason of handicap, unless such handicap

prohibits such individual from performing job-related duties or places such handicapped person or city employee in unsafe conditions likely to result in bodily injuries to the handicapped person or other city employee. If a city employee does not agree to submit to a physical examination, such refusal shall be grounds for dismissal, suspension or leave without pay.

Sec. 20-24 – 20-40. Reserved.

ARTICLE II.COMPENSATION PLAN.

Sec. 20-41. Salary increases.

A salary increase shall not be considered as an automatic and routine right due an employee. All salary increases shall be based upon quality and quantity of work as reflected by performance appraisal and other recorded ratings, giving due consideration to length of service.

Sec. 20-42. Holiday pay.

All full-time employees shall be paid for a normal workday for each legal holiday established by Mayor and City Council. Part-time employees shall be paid the pro rata part of a normal workday based on hours per day normally worked. Temporary employees, whether part-time or full-time, are not eligible for holiday pay. Employees required to work on a holiday shall be paid the regular day's pay. In addition, they may be given comparable time off at a subsequent date not later than twelve (12) months following the holiday or, upon approval of the city manager or assistant city manager, may be paid for the holiday at a straight-time rate.

Sec. 20-43. Quality pay increase.

A quality pay increase is a pay increase equivalent to a step increase available to permanent full-time employees whose performance is of such superior quality above that ordinarily found in the type of position concerned that special pay recognition is warranted.

Sec. 20-44. Longevity pay.

Longevity pay is a benefit to employees for continued service to the city. Permanent employees shall receive additional compensation based upon satisfactory completion of successive years of service to begin after completion of eight (8) years of service. The method of compensation, as set forth in the administrative procedures to the personnel code, shall be determined by the Mayor with approval of funding by the City Council.

Sec. 20-45. Separation pay.

(a) *Annual leave payout.* Upon separation from employment with the city, an employee who has completed at least six (6) months but less than ten (10) years of qualifying service may receive pay for accumulated unused annual leave up to a maximum of thirty (30) days at the employee's regular rate of pay. An employee who has completed at least ten (10) years of qualifying service may, upon separation from employment with the city, receive pay for accumulated unused annual leave up to a maximum of forty-five (45) days at the employee's regular rate of pay. No payment shall be made upon separation from employment for any amount of accumulated unused sick leave.

(b) *Annual leave payout; death of employee.* Upon the death of a permanent employee, the beneficiary of such employee shall be paid for accumulated unused annual leave and any other final pay and allowances in the manner of other separations as indicated above.

(c) *Temporary and emergency employees.* The appointment of any person as a temporary or emergency employee shall be automatically terminated upon the expiration of the maximum period of time that the person can be so employed. No further payment for services shall continue beyond the termination date.

Sec. 20-46. Hazardous duty pay.

Extra pay, as authorized in the city's compensation plan, shall be granted: to any employee qualified as a helicopter pilot, having appropriate and current Federal Aviation Administration licensing and medical certificates for the type of helicopters operated by the police department, and designated and serving in a position permitting active piloting duty on county-owned or county-leased aircraft; to any employee qualified as a bomb technician, having the appropriate certification from the Redstone Arsenal Missile and Munitions School and designated and serving in a position requiring active bomb disposal duty for the city; and to any employee qualified as a member of the special weapons and tactical unit, having advanced and extensive training and required certifications in the use of chemical munitions, explosive devices, automatic and specialized weapons, and related equipment.

Sec. 20-47. Employee suggestion program.

The employee suggestion program is established as a benefit program to compensate employees for suggestions that improve city operations, reduce costs, improve productivity and working conditions and/or improve employee morale. Employees can earn monetary payment for suggestions that are adopted and result in tangible savings (measurable, quantifiable cost savings or increase in county revenue) or intangible savings (have an overall benefit but cannot be measured in dollars). The method of compensation, as set forth in the administrative procedures to the personnel code, shall be determined by the mayor with approval of funding by the city council.

Sec. 20-48. Acting status pay.

Subject to approval by the mayor in accordance with procedures established by the mayor and city council, an employee appointed to serve in an acting status in a position with a higher pay classification shall receive compensation at the next pay step that would afford the

employee at least a five (5) percent pay increase for any time served in such acting status beyond sixty (60) days consecutively. Acting pay shall not be paid for more than nine (9) months without approval of mayor and city council. For purposes of this section, an employee shall be deemed to be appointed to serve in an acting status when such appointment is made in writing by the department head, is submitted through the merit system director to the mayor, and is approved by the mayor. An acting appointment may only be made to a duly established position which is vacant.

Sec. 20-50. Continuance of life, health and dental insurance while on leave of absence.

City officers and employees may continue their group life, group health and dental benefits insurance, if they so desire, while on leave of absence from the employ of the city, provided that such leave of absence is granted for one of the following reasons:

- (1) Military leave of absence.
- (2) Maternity leave of absence.
- (3) Sick leave of absence.
- (4) Court leave of absence.
- (5) Family and medical leave of absence.
- (6) Approved leave of absence.
- (7) As required by state or federal law.

Sec. 20-51. Family and domestic partnership benefits.

As part of a city officer's or employee's compensation, the city may provide for group life, group health and dental insurance benefits for an employee's legal spouse, and children, as provided for in the insurance plan documents. As part of a city officer's or employee's compensation, the city may provide for group life, group health and dental benefits for a person declared as the officer's or employee's domestic partner under Article X of this chapter. Any employee who

receives insurance coverage for a domestic partner shall notify the employee benefits division within ten (10) days of any change in or termination of the domestic partnership. Any employee who fraudulently obtains coverage for a person who is not a spouse, child, or a domestic partner, as defined under Chapter 20, Article X, shall reimburse the city for all costs involved in providing such coverage and be subjected to penalties as provided by the laws of the State of Georgia and the County of DeKalb.

Sec. 20-52. Limitation of liability for benefits.

Nothing in this chapter shall create any broader, greater, different or other benefits than that provided in the contract of insurance or group plan, and the city shall not be liable for any life, health or dental benefits beyond that provided by the insurance contract or group plan.

Sec. 20-53 – 20-65. Reserved.

ARTICLE III. CERTIFICATIONS AND APPOINTMENTS.

Sec. 20-66. Generally.

When the department head chooses to fill a vacancy, the department head may elect to fill the position through any of the methods of making appointments established under this chapter or administrative regulations. The mayor shall adopt rules for the certification of eligibility on the register and the appointment to fill vacancies, temporary and emergency appointments to permanent positions, emergency positions and reappointment.

Sec. 20-67. Time-limited appointments.

Time-limited appointments may be made to positions established for special programs or projects normally anticipated as being longer than six (6) months but not permanent in nature. Programs or projects requiring this type of appointment will normally be mandated by a

federal or state program implemented for a specific purpose such as training, retraining or rehabilitation. Appointments may be made through competitive or noncompetitive procedures according to the program requirements.

Sec. 20-68. Review of discrimination charge.

Any applicant who believes unjust discrimination has been exercised in any phase of the pre-employment process because of race, color, religion, national origin, sex, political affiliation, or opinion, age, sexual orientation, or handicap may appeal to the mayor and city council. Such charge must be filed in writing within one hundred eighty (180) days after the occurrence of the alleged discriminatory action, and must include the date, time, place, name(s) and specific charge of discrimination. The mayor and city council shall investigate the alleged discriminatory action, and the mayor and council's decision shall be binding.

Sec. 20-69. Employment of relatives.

a) The employment of relatives within the same department (as defined in this Code section 20-69) wherein there is a direct or indirect supervisory/subordinate relationship is prohibited. For purposes of this Code section, direct or indirect supervisory/subordinate relationship shall mean regular assignment in the line of supervision or chain of command, and shall exclude temporary assignment of less than five (5) consecutive business days.

b) "Department" solely for purposes of this Code section 20-69 shall mean the departments of the city, except that the following bureaus and divisions shall be considered separate "departments" for purposes of this Code section:

- (1) Police bureau;
- (2) Fire bureau;
- (3) Emergency medical services;

- 837 (4) Animal control division;
838 (5) Development division;
839 (6) Fleet maintenance division;
840 (7) Roads and drainage division;
841 (8) Water and sewer division;
842 (9) Sanitation division;
843 (10) Any bureau or division designated by the mayor as a separate
844 "department" for purposes of this Code section.
- 845 c) The term "relatives" shall mean:
- 846 (1) Father, mother, daughter, step-daughter, son, step-son,
847 brother and sister of the whole blood or of the half-blood,
848 grandparent, grandchild, first cousin, aunt, uncle, nephew
849 and niece.
- 850 (2) Husband, wife, mother-in-law, father-in-law, sister-in-law,
851 brother-in-law, son-in-law, and daughter-in-law.
- 852 These relationships shall include those arising from adoption.
- 853 d) The limitation on employment or promotion of relatives specified in
854 this Code section shall apply to the continued employment of
855 persons where the referenced relationships commence subsequent
856 to their employment. This section shall apply only to filling of
857 vacancies by promotion, hiring, transfer from separate
858 departments (as defined in this Code section) and reappointments
859 made on or after the effective date of this section. If an appropriate
860 transfer cannot be arranged, the less senior employee shall resign
861 or will be terminated from employment unless the more senior
862 employee chooses to transfer or resign.
- 863 e) Seniority for purposes of this Code section shall mean total length
864 of employment in positions covered by the City Merit System.

- f) Nothing in this Code section shall be interpreted to prohibit employment of relatives in different departments, as defined in this Code section.

Secs. 20-70 – 20-80. Reserved.

ARTICLE IV. VETERAN’S PREFERENCE.

Sec. 20-81. Generally.

All candidates and competitors for positions under the merit system (including veterans and their spouses) must meet the minimum requirements for the position sought, and successfully pass the total examination prescribed, if any. Veteran's preference points, if any, shall not be used to raise an otherwise unqualified candidate to a qualified level, nor do veteran's preference points exempt those entitled to them from examination.

Sec. 20-82. Addition of points to rating – Able-bodied veterans.

- (a) Any veteran who has served on active duty as a member of the Armed Forces of the United States for a period of more than one hundred eighty (180) days (not counting service under an initial period of active duty for training under the six (6) months' reserve or National Guard programs), any portion of which service occurred during a period of armed conflict in which any branch of the Armed Forces of the United States engaged, whether under United States command or otherwise, and who was honorably discharged shall be entitled to and shall have five (5) points added to his or her passing score on any examination for employment in any position under the merit system.
- (b) Notwithstanding the one hundred eighty-day minimum active duty requirement of subsection (a) of this section, the five-point preference granted to veterans under said subsection shall apply to

any member of the National Guard or armed forces reserve who served on active duty for:

(1) Any length of time during any portion of the time the Armed Forces of the United States were engaged in Operation Desert Shield or Operation Desert Storm if such service occurred in an area of imminent danger as defined by the United States Department of Defense as follows:

- a. The Persian Gulf;
- b. The Red Sea;
- c. The Gulf of Oman;
- d. The portion of the Arabian Sea that lies north of ten (10) degrees north latitude and west of sixty-eight (68) degrees east longitude;
- e. The Gulf of Aden; and
- f. The total land area of Saudi Arabia, Kuwait, Iraq, Yemen, Oman, Bahrain, Qatar, and the United Arab Emirates; or

(2) Any length of time during a period of war or armed conflict in which any branch of the Armed Forces of the United States was engaged after Operation Desert Shield and Operation Desert Storm, whether under United States Command or otherwise.

Sec. 20-83. Same – Disabled veterans.

Any veteran who qualifies for a preference as provided in section 20-82 in this article and has at least ten (10) percent service-connected disability as rated and certified by the United States Department of Veterans Affairs shall be entitled to and shall have ten (10) points added to his or her passing score on any examination for employment in any position under the merit system. This ten-point preference shall be in lieu

of, not in addition to, any other similar preference accorded by this article or federal or state law.

Sec. 20-84. Spouse of disabled or deceased veteran.

(a) The spouse of a veteran who qualifies for a preference as provided in section 20-82 in this article shall be entitled to and shall have five (5) points added to his or her passing score on any examination for employment in any position under the merit system if the spouse of the veteran is qualified for the merit system position sought, and if the veteran has a one hundred (100) percent disability that disqualifies him or her from employment.

(b) The spouse of a veteran, who if living would qualify for a preference as provided in section 20-82 of this article, shall be entitled to and shall have five (5) points added to his or her passing score on any examination for employment in any position under the merit system if the spouse of the veteran is qualified for the position sought and the veteran is deceased.

Sec. 20-85. Appropriate consideration.

(a) In the event that a scored examination is not required to qualify for a particular merit system position, "appropriate consideration" may be given to all candidates and competitors for that merit system position who qualify for a veteran's preference under this article.

(b) "Appropriate consideration" means that:

(1) A candidate who qualifies for a veteran's preference in this article and meets the minimum requirements for the merit system position sought is entitled to have his or her qualifications presented to the relevant department head or appointing authority for consideration;

(2) A candidate who qualifies for a veteran's preference in this article may be given preference in appointment to a position under the merit system if his or her qualifications for the position

sought are equivalent to those of the best qualified non-veteran applicant for the position.

Sec. 20-86. Extent of preference.

The veteran's preferences established by this article are confined to entrance to the city's service, and do not apply in the case of examinations for or consideration for promotions.

Sec. 20-87. Preferential appointment not mandatory.

The appointment of a candidate who qualifies for a veteran's preference is not mandatory, even if his or her qualifications are equivalent to those of the best qualified non-veteran applicant for the position.

Sec. 20-88. Appointment discretionary.

The appointment of a candidate who qualifies for a veteran's preference is within the discretion of the department head. The department head may select another qualified candidate (who is not entitled to the veteran's preference) whose name has been certified. If this occurs, the director shall return the name of the candidate who qualifies for a veteran's preference to the register for further consideration.

Secs. 20-89 – 20-100. Reserved.

ARTICLE V. PROBATIONARY STATUS.

Sec. 20-101. Purpose.

The probationary period shall be considered an integral part of the selection process. All employees appointed or promoted to a position in

the city's classified service shall be required to satisfactorily complete the probation period prior to achieving permanent status.

Sec. 20-102. Duration.

The first six (6) months of on-the-job service in a position to which an employee has been appointed or promoted under the provisions of article III covering appointments shall constitute the probation period. The director may fix a different length for the probation period as it applies to positions of one (1) or more classes. The period shall not be fixed at less than three (3) months, nor more than twelve (12) months. The length of the probation period shall be the same for all positions in a class.

Sec. 20-103. Time counted.

Only time in pay and active work status shall be counted toward completion of the probation period. Employees in probation status who are absent on leave-without-pay, or who are absent for reasons under workers' compensation or disability leave, shall be required to complete the amount of time on the job specified for the class to which they are appointed.

Sec. 20-104. Conditions prerequisite to permanent status.

Supervisors of probationary employees should evaluate those employees periodically during the probation period. Whether formal or informal procedures are used, it is the responsibility of the supervisor to point out areas of deficiency and inform the employee in the correct and expected manner to perform the job. It shall be the responsibility of the department head to obtain a statement in writing from the proper supervisor to the effect that the services of each employee appointed for an initial appointment probation period have or have not been satisfactory and that the employee is or is not recommended to be retained. The statement shall contain an appraisal of the value of the employee's service upon the employee performance evaluation form. The

department head shall obtain this statement prior to the completion of the probation period, and make a recommendation to the director. No probation employee shall be considered to have attained permanent status as an employee under the merit system until certified by the director. If the employee is not certified as a permanent status employee, the department head shall notify the employee in writing in advance of the date on which the employee's services are to be terminated, and transmit a copy to the director.

Sec. 20-105. Probation in promotional position.

The department head shall have the same responsibility to assure evaluation of employees in promotional probation status as the department head has in initial appointment probation status. If it is determined that the employee is unsuitable for the position, the department head shall return the employee to the position previously occupied if it is vacant. If not vacant, the department head shall confer with the director relative to placement of the employee in a comparable class of positions for which the employee meets the requirements. If such placement is not feasible, the employee's name shall be placed on the reemployment register. The employee shall receive written notification, prior to the action, stating the reasons for the action. A copy shall be given to the director.

Secs. 20-106 – 20-120. Reserved.

ARTICLE VI. PROMOTION, TRANSFER AND DEMOTION

Sec. 20-121. Procedures generally.

The city manager shall adopt administrative procedures for the filling of a vacancy by selection on a competitive basis of a permanent

employee, and for transfers and demotions. Selection shall be made by the department head and reported to the director who will notify the applicant.

Sec. 20-122. Promotion.

No employee shall be promoted unless such employee has permanent status and the employee's last recorded performance appraisal is average or above. Although not eligible to qualify for a promotional position which is to be filled from present county employees only, a probation employee is eligible to apply for any city position which is being filled by open competitive examination. A probation period is required for an employee who is promoted.

Sec. 20-123. Transfer – Generally.

A vacancy may be filled by the transfer of a permanent or probation employee from another position of the same class or a comparable class subject to the limitations of this chapter.

Sec. 20-124. Same – From position of same class.

A permanent or probation employee in a position may be transferred to any vacancy of the same class. Where the employee has been placed in a position through a procedure involving selective certification, the employee shall not be transferred to any other position for which selective certification on the same basis is not justified until the employee has completed the probation period or the employee's name on the register has been reached through regular certification.

Sec. 20-125. Same – From comparable class.

A permanent or probation employee may be transferred to a comparable class if the director has certified that the minimum qualifications or training/education and experience specified for the class of the vacancy are met. If a performance test is required for regular appointment to the vacant position, and the employee to be transferred has not passed the required performance test for the class, then the

employee must be certified on a test similar to and as extensive as the regular performance test.

Sec. 20-126. Demotion – Generally

An employee who is demoted shall retain the same employment status, except that the employee's rate of pay shall be reduced to the step in the pay range assigned to the lower position that is at least the equivalent of one (1) step in the pay plan. If the demotion is non-disciplinary, and if the employee's present salary does not exceed the maximum of the new range, the director may, upon recommendation of the department head, approve a pay step equal to the employee's former salary.

Sec. 20-127. Same – Procedure; reasons.

A permanent or probation employee may be demoted to a lower class for which the employee meets the requirements for reasons relative to job performance. When an initial appointment probation employee is demoted, the employee shall continue the probation period as if the original appointment had been to the position of the lower class. A permanent or probation employee may request appointment to a lower class, and the department head may make the demotion subject to the limitations applicable to transfers. A department head may demote a permanent or probation employee when a shortage of work or funds, the abolition of a position, or other material change in duties or organization necessitates the action.

Secs. 20-128 – 20-140. Reserved.

ARTICLE VII. PERFORMANCE APPRAISAL.

Sec. 20-141. Administration of appraisal system.

Each department head, in consultation with the director, shall develop and administer a system of performance appraisal to give a fair

and objective assessment of each employee's job performance. All appraisal (evaluation) forms and procedures shall be approved by the director prior to official use.

Sec. 20-142. Performance appraisal of supervisors.

A supervisor's performance appraisal shall include an evaluation of the use of performance appraisals with employees to improve their performance. Supervisors shall be evaluated as to their effectiveness in the equal opportunity and affirmative action policies of the city.

Secs. 20-143 – 20-160. Reserved.

ARTICLE VIII. ATTENDANCE AND LEAVE.

Sec. 20-161. Hours of work.

(a) The standard workweek for full-time employees shall generally be forty (40) hours; however, due to the requirements of certain positions, this standard may vary. Specific hours of work shall be set by each department head with the concurrence of the director and the approval of the city manager. In any event, specific hours of work and compensation for overtime shall be in compliance with the provisions of the Fair Labor Standards Act. Time worked in excess of the standard workweek, which is approved by the department head in advance or in cases of emergency as determined by the department head, shall be credited as overtime. In computing hours worked for overtime purposes, annual and sick leave and holidays shall be excluded. Overtime shall be accrued or compensated at the rate of one and one-half (1½) times the regular rate. Compensatory time at the rate of one and one-half (1½) hours for every hour worked in excess of the applicable standard workweek may be given to employees eligible for overtime compensation in lieu of cash compensation.

(b) Eligible law enforcement, emergency medical, fire and seasonal employees may accrue up to four hundred eighty (480) hours of compensatory time before overtime compensation must be paid in cash. All other employees eligible for overtime compensation may accrue up to two hundred forty (240) hours. Compensatory time may be utilized by the employee with prior approval of the department head under the same procedures as apply to annual leave as set forth in section 20-165, subsection (e). For employees eligible for overtime compensation, accrued balances must be paid to the employee at termination at a rate not less than the average regular rate of pay over the last three (3) years of employment or the final rate of pay, whichever is higher.

(c) Employees exempt from overtime compensation may be granted compensatory time at an hour-for-hour rate at the discretion of the department head. If granted, such compensatory time must be used within one (1) calendar year of the date granted in accordance with procedures as apply to annual leave as set forth in section 20-165, subsection (e). Overtime exempt employees are not eligible to receive cash compensation for unused balances.

Sec. 20-162. Transfer of leave benefits.

When a permanent or working test employee is transferred to another department, the department receiving the employee shall assume responsibility for this employee's unused accumulated sick and annual leave.

Sec. 20-163. Sick leave.

(a) City employees, except temporary and emergency employees, are eligible for sick leave benefits as earned from the date of employment. Sick leave shall accrue for full-time employees at the rate of one (1) day per month or its proportional equivalent (see section 20-165 for annual leave accrual rate) and an additional one-half day's sick leave or

proportional equivalent thereof (see section 20-165 for annual accrual rate) will accrue on June 30 and December 31 of each year. Part-time employees shall accrue sick leave at the rate of one-half day a month and an additional one-quarter day's leave will accrue on June 30 and December 31 of each year. An employee who starts work before the sixteenth of a month shall earn sick leave for that month, but if the employee starts work on or later than the sixteenth of the month, sick leave accrual will be determined by the hours worked by the end of the month. No sick leave shall accrue for an employee under conditions as set forth in section 20-165, subsection (b). No accrual shall be permitted for an employee on leave without pay, workers' compensation or disability leave. When an employee shall have accumulated thirty (30) days of sick leave by the end of the last pay period in November, such employee may be paid in cash each year by December 25 for one-fourth of that year's unused sick leave accumulated beyond the thirty (30) days, and the other three-fourths beyond the thirty (30) days shall be added to the sick leave accumulation of such employee. Accrued but unused sick leave shall be cumulative for succeeding years.

(b) Both probationary and permanent status employees who are eligible for sick leave with pay shall be granted this leave for the following reasons:

(1) Personal illness or physical incapacity and doctor or dentist appointments of the employee, employee's spouse, children living in the same household, or serious illness of spouse, children or parents as defined in the Family and Medical Leave Act of 1993.

(2) Enforced quarantine of the employee in accordance with community health regulations.

(c) An employee on sick leave shall inform the employee's immediate supervisor of the fact and the reason therefor within the time established

by the department head, and failure to do so may be cause for denial of sick leave with pay for the period of the absence.

(d) A medical certificate signed by a licensed physician may be required by the department head to substantiate a request for sick leave for any of the following:

(1) Any period of absence consisting of three (3) or more consecutive days.

(2) Sick leave of any duration if absence from duty recurs frequently or habitually, provided the employee has been notified in writing that a certificate will be required.

(3) To support the use of family and medical leave and unscheduled annual leave when sick leave has been exhausted.

Sec. 20-164. Holidays.

(a) The city will observe ten (10) paid holidays per year. These are:

January 1, New Year's Day.

Third Monday in January, Martin Luther King's birthday.

Third Monday in February, George Washington's birthday.

Last Monday in May, Memorial Day.

July 4, Independence Day.

First Monday in September, Labor Day.

November 11, Veteran's Day.

Fourth Thursday in November, Thanksgiving Day.

Friday immediately following Thanksgiving Day.

December 25, Christmas Day.

(b) Whenever a legal holiday occurs on Saturday, the previous Friday will be observed. Whenever a legal holiday occurs on Sunday, the following Monday will be observed.

(c) Any employee who is required to work the holiday may be allowed to take a day off at a subsequent date no later than twelve (12) months following the holiday or, upon the approval of the chief executive or the

chief executive's designee, may be paid for the holiday at a straight-time rate.

Sec. 20-165. Vacation (annual) leave.

(a) *[Vacation accrual.]* Vacation (annual) leave with pay for employees whose normal work schedule consists of a forty-hour workweek shall accrue as per the following:

Qualifying Service (years)	Accrual per month (hours)	Annual accumulation (days)
Less than 5 years	10	15
5 years up to 10 years	12	18
10 years up to 15 years	14	21
15 years up to 20 years	16	24
20 years and over	18	27

Those employees whose regularly scheduled average workweek exceeds forty (40) hours shall accrue vacation (annual) leave hours at a rate proportionate to the designated hours of work according to the following formula:

Scheduled		Normal		
Average		accrual for		
Hours		40-hour/week		proportional
per week		based on		leave accrual
	×	years of service	=	rate
40				

(b) *[Exceptions.]* Notwithstanding the provisions of subsection (a):

(1) Temporary and emergency employees shall not accrue annual leave.

(2) Part-time employees shall accrue annual leave at one-half the rate shown.

(3) No annual leave shall accrue while an employee is on leave without pay, workers' compensation or disability leave.

(4) No annual leave shall accrue when, due to an unexcused absence, an employee works less than seventy-five (75) percent of the scheduled hours in a pay period.

(c) *[Use of accrued leave.]* An employee shall not be entitled to use any part of accumulated annual leave until the employee has worked six (6) months. Accrued but unused annual leave at the end of any year (starting with 2011) shall be accumulated for succeeding years up to a maximum per the following (based on a forty-hour workweek):

Qualifying Service (years)	Annual Maximum Carryover (Days)	Annual Maximum Carryover (Hours)
Less than 10 Years	30	240
10 Years and Over	45	360

Employees whose regularly scheduled average workweek exceeds forty (40) hours shall carry over vacation (annual) leave hours at a rate proportionate to the designated hours of work in accordance with the formula in subsection (a). Annual leave accumulated over the maximum amount that may be carried over to the next year shall be converted to sick leave and added to the employee's accumulated sick leave balance for the next year.

(d) *[Scheduling leave.]* Annual leave shall be scheduled in advance and requires the approval of the department head; vacation schedules shall be arranged to provide the least possible disruption of department work programs. Annual leave can be used for emergency situations when approved by the department head. Annual leave, to the extent the purpose for such leave qualifies for leave under the Family and Medical Leave Act of 1993 (FMLA), will be counted against the employee's FMLA leave entitlement.

(e) *[Unused sick leave.]* At the beginning of each year, an employee shall be credited with one (1) day of annual leave for each fifty (50) days of unused accrued sick leave the employee had on December 31 of the previous year.

(f) *Transition to new annual maximum carryover.* To move employees from the 2011 carryover limits to the new 2012 carryover limits, the rollover process will be handled in two (2) steps as follows. First, any amount of accumulated annual leave that exceeds the prior sixty-day maximum at the end of 2011 shall be converted to sick leave, per previous procedures. Second, any remaining annual leave exceeding the new 2012 carryover limit shall be converted to sick leave unless the employee elected to place it into an annual leave reserve account. That election must be made in writing by the employee and received by the director no later than January 2, 2012. If an employee does not make a timely election, all of the employee's accumulated annual leave not carried over into 2012 shall be converted to sick leave. All accumulated annual leave that is converted into sick leave pursuant to this subparagraph shall be converted on an hour-for-hour basis and added to the employee's accumulated sick leave balance for 2012. Accumulated annual leave that is placed into an annual leave reserve account may be used as annual leave if the employee's accumulated annual leave is otherwise exhausted and the employee's department head authorizes such use.

(g) *Annual leave payout for employees who have reserve account annual leave at separation.*

(1) *Payment for reserve account annual leave.* An employee who has accumulated annual leave left in his/her annual leave reserve account at separation shall receive pay for such leave at the employee's last 2011 pay rate.

(2) *Payment for accumulated unused annual leave outside the employee's reserve account; limitations on such payment.* In addition to payment for any remaining reserve account annual leave, an employee may receive pay for accumulated unused annual leave outside his/her reserve account

at separation, subject to the limitations in subsection 20-45(a) of this chapter and subject to the additional limitation that no employee may receive pay for more than sixty (60) days combined total of accumulated unused annual leave under subsections (1) and (2) of this subsection (g).

Sec. 20-166. Leave of absence without pay.

Leave of absence without pay for a period not to exceed six (6) consecutive months may be granted to any employee with the approval of the department head. Any leave of absence for a period in excess of six (6) consecutive months shall be at the discretion of the city manager. Valid reasons for leave without pay shall include, but not be confined to, the following: those reasons required under the Family and Medical Leave Act of 1993, educational or training enrichment, and military leave.

Sec. 20-167. Military leave.

(a) An employee who is a member of the National Guard or an organized military reserve of the United States will be allowed leave of absence with pay to participate in ordered military duty or training for a period consistent with state law.

(b) An employee, other than emergency or temporary, who leaves employment with the county for military service with the United States shall have reemployment rights upon successful completion of such service, consistent with federal law.

Sec. 20-168. Court leave.

An employee serving on a permanent, probationary or temporary basis shall be entitled to leave of absence from duties, without loss of pay or time and without effect on service rating, on all days during which the employee is subpoenaed by any court, federal, state or political subdivision thereof, to serve as a juror or witness.

Sec. 20-169. Maternity Leave.

Maternity leave shall be granted to merit system employees in compliance with applicable administrative procedures and the Family and Medical Leave Act of 1993. Time for beginning and ending of maternity leave shall be certified by the employee's doctor. Maternity leave shall consist of the following: use of any accumulated sick leave, annual leave and/or leave of absence without pay as prescribed in sections 20-163, 20-165, 20-166 and 20-170.

Sec. 20-170. Family and medical leave.

Family and medical leave shall be granted to those employees eligible and pursuant to the Family and Medical Leave Act of 1993 and the administrative procedures.

Sec. 20-171. Donation of leave time.

Any permanent employee who has been employed with the City for a minimum of twelve (12) months and who meets the eligibility criteria set forth in the administrative procedures promulgated by the mayor and city council may donate his/her accrued annual or sick leave to other city employees who have exhausted all accrued paid leave due to serious health conditions as defined by the mayor and city council in the administrative procedures.

Secs. 20-172 – 20-185. Reserved.

ARTICLE IX. DISCIPLINARY ACTION AND APPEALS

Sec. 20-186. 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:

Delinquency means violation of duty to the job requirements or county regulations.

Excessive absenteeism means the habitual or patterned use of sick leave, or leave without pay, not supported by competent medical evidence or other proof of necessity. On a national average, employees experience two (2) to three (3) incidents of sick leave absence a year. Unsubstantiated absences, in excess of the following rule of thumb, may be an indication of excessive absenteeism:

(1) Two (2) incidents in three (3) months.

(2) Four (4) incidents in six (6) months.

(3) Six (6) incidents in one (1) year.

(An incident is a single day or consecutive series of absences.)

Flat fee reimbursement means a flat fee to reimburse a permanent status employee for a portion of the attorneys' fees such employee actually paid to an attorney to represent the employee in a merit system appeal, where at the end of all available appeals (including any appeals by the employee or county in court), the employee's termination or demotion is reversed. The amount of such reimbursement shall be determined by a reimbursement schedule issued in writing by the county attorney annually and approved by official action of the governing authority. Under this schedule, the flat fee amount that an employee may be reimbursed for shall be less for an appeal of a demotion than an appeal for termination.

Incompetence means the lack of qualities or the incapability of doing the job. Skills, knowledge and abilities are inadequate, unsuitable or obsolete to perform at minimally acceptable standards of performance.

Inefficiency means nonproduction, wasteful use of time, energy or material, or repeated errors and mistakes.

Insubordination means the unwillingness or refusal to perform assigned work, or deliberate failure to comply with written or verbal instructions from a proper supervisory authority.

Misconduct means mismanagement of job responsibilities and county property, intentional improper behavior on the job, or deliberate violation of county regulations.

Negligence means careless disregard for or lack of attention to job-related matters.

Sec. 20-187. Departmental rules.

The department head of any department may establish rules which are related to the work of that department.

Sec. 20-188. Disciplinary action.

Where the department head does not deem termination warranted, as hereinafter provided, the following disciplinary actions may be taken after due consideration has been given to the nature of the cause therefor:

(1) Suspension. An employee may be suspended for a period of one (1) or more full days, not to exceed thirty (30) days in a twelve-month period. An employee may be suspended for an indefinite period of time pending the outcome of an investigation of a crime involving moral turpitude during which the employee may have the option of using accrued annual leave credits until they are exhausted. A suspension may be appealed as prescribed in section 20-193.

(2) Demotion. An employee may be demoted to a lower class in which the employee meets the minimum qualifications.

(3) Reserved.

Sec. 20-189. Dismissal.

A permanent status employee may be dismissed by a notice in writing giving the cause of the dismissal with sufficient particularity so that the employee may be on notice of the reason for discharge in order that the employee may fully explain the conduct if so desired. Cause for dismissal shall be as outlined in section 20-191 or for other reasons relative to job performance. Dismissal for disciplinary reasons may be instituted without prior notice. Unless a written notice of dismissal is handed to the employee personally by a supervisor or other authorized person, it shall be mailed to the employee at the last known address of such employee as shown by the employee personnel file maintained in the merit system department. It shall be the duty of each employee, and no other, to keep

the merit system department informed of the employee's residence address. A permanent classified employee may appeal a dismissal, including dismissal due to reduction in force, to a hearing officer by filing a written notice of the desire to appeal with the director within ten (10) days from the effective date of dismissal. If the notice of dismissal is not handed to the employee personally, it shall be deemed to have been delivered to the employee three (3) days after the date of deposit in the United States mail. Copies of all dismissal notices shall be furnished to the director.

Sec. 20-190. Authority for disciplinary action and discharge.

The mayor, as the chief administrative officer of the city, shall have the authority to impose disciplinary actions and to dismiss employees as provided in this article. In addition, disciplinary action may be taken against an employee or an employee may be dismissed by the head of the department to which the employee is assigned. An employee's supervisor may propose disciplinary action or dismissal, but before the same shall become final, it must be reviewed and approved by the department head.

Sec. 20-191. Cause for dismissal or disciplinary action.

Cause for dismissal and disciplinary action shall include but not be limited to the following:

- (1) Violation of any material provision of this chapter, or other personnel rules and regulations, and any violation of section 20-20 (conflicts of interest) and section 20-20.1 (financial disclosure forms) of this chapter.
- (2) Substandard work quality.
- (3) Improper use of county equipment or property.
- (4) Selling or soliciting on county property without prior authorization.
- (5) Unauthorized use of telephone or other city communication equipment.
- (6) Conduct unbecoming an employee of the city while on duty.
- (7) Leaving the work area without permission from the supervisor.
- (8) Failure to call in when sick or absent from work otherwise without prior approval.

- 1438 (9) Neglect, carelessness or disregard of common safety practices.
- 1439 (10) Violation of departmental rules.
- 1440 (11) Malicious mischief, horseplay, wrestling, or other undesirable conduct.
- 1441 (12) Falsifying any official record or document.
- 1442 (13) Giving a false answer or false information on application.
- 1443 (14) Habitual unexcused tardiness.
- 1444 (15) Loafing, neglect of duties or otherwise wasting of working time.
- 1445 (16) Sleeping during working hours except where conditions of work authorize
- 1446 and warrant it.
- 1447 (17) Possession of intoxicating beverages or controlled substances at place of
- 1448 work, or in official city vehicles.
- 1449 (18) Possession of or bringing a firearm or other deadly weapon on city
- 1450 property or an official city vehicle, unless duly authorized by the
- 1451 department head.
- 1452 (19) Reporting to work under the influence of intoxicating beverages, or drugs
- 1453 not prescribed by a physician.
- 1454 (20) Fighting, threatening, intimidating, coercing or otherwise interfering with
- 1455 the rights of other employees.
- 1456 (21) Gambling on county property.
- 1457 (22) Insubordination or willful failure to carry out an official supervisory
- 1458 directive or job assignment.
- 1459 (23) Acceptance of a fee, gift or service of any item of value in return for a
- 1460 favor.
- 1461 (24) Loss or damage of county property through carelessness or negligence.
- 1462 (25) Violation of a safety rule which results in personal injury or property
- 1463 damage; refusal to use proper safety equipment when provided.
- 1464 (26) Failure of supervisor to enforce established safety regulations, or requiring
- 1465 employee to perform unsafe act.
- 1466 (27) Excessive absenteeism.
- 1467 (28) Exhaustion of annual leave without prior approval.

- (29) Abuse of sick leave.
- (30) Misappropriation of city funds or illegal sale or disposal of city property for personal gain, or deliberate falsification of official reports, employment application or misrepresentation of personnel information in order to qualify for appointment or promotion.
- (31) Conviction of a felony crime, or a misdemeanor involving serious moral turpitude.
- (32) Engaging in a strike, work stoppage, slowdown or act of sabotage.
- (33) Substantial incompetence or inefficiency in carrying out work assignments.
- (34) Failure to report for work without prior approval, except when sick leave is authorized.
- (35) Stealing or similar conduct, including destroying, damaging or concealment of any property of the city.
- (36) Willful damage of or attempt to damage city property.
- (37) Threatening physical violence or striking a supervisor or subordinate.
- (38) Operation of any city-owned or city-leased vehicle or equipment without proper state license or while under the influence of any medication or drug which has been prescribed by a doctor and which carries the warning not to drive or operate machinery while using same.

Sec. 20-192. Intradepartmental transfer not a disciplinary act.

An employee may be transferred to another division or facility at the discretion of the department head. The department head shall be the final arbitrator of all intradepartmental transfers and the sole judge of the need, necessity, convenience or reason for such transfer. An intradepartmental transfer shall not be construed to be a demotion unless it results in a reduction of the employee's pay.

Sec. 20-193. Review of disciplinary action (appeals).

A permanent status employee aggrieved by any suspension, demotion, or termination may appeal such aggrieved action to a hearing officer as outlined below:

(1) All requests for review of disciplinary actions shall be filed in writing with the director within (10) days from the effective date of the disciplinary action.

(2) A hearing officer shall be assigned, pursuant to the administrative procedures, to hear said appeal within forty-five (45) days after it is filed, during which time said hearing will convene to afford the aggrieved employee a hearing before said hearing officer, which may be continued from time to time, to fully explain his or her conduct for which he or she was disciplined.

(3) The hearing officer may reverse a disciplinary action only upon a finding that it was based upon an error in fact or was motivated by a non-job-related factor.

(4) The hearing officer shall issue a written decision within twenty (20) days of the hearing. The decision of the hearing officer shall be in writing, dated and signed.

The written decision shall contain the findings of fact, the conclusions and, clearly set forth the basis or grounds for the decision.

Sec. 20-194. Review of action considered discriminatory against employee.

Any employee who believes unjust discrimination has been exercised with respect to any disciplinary action because of race, color, religion, national origin, sex, political affiliation, or opinion, age, sexual orientation, or disability may appeal to a hearing officer within ten (10) days from the effective date of the action. Such appeal shall be filed with the director and set forth in detail the reasons why the employee contends the disciplinary action was based upon discrimination, including specifying the dates, times, places, and specific types of each instance of discrimination alleged. In such cases, the hearing officer may reverse the decision of the department head only on a finding that it was based on error of fact or was motivated by intentional discrimination against the employee because of membership in a protected class listed in this section. The same provisions relative to the hearing officer as outlined in section 20-193 shall also apply in the case of an employee discrimination appeal under this section.

Sec. 20-195. Review of dismissal due to reduction in force.

An employee dismissed due to reduction in force may appeal to a hearing officer within ten (10) days from the effective date of the action. This appeal request must be filed in writing with the merit system director. Such appeal shall be filed and heard in accordance with the procedures set out in this chapter; however, the right of review by the hearing officer shall be limited to whether the dismissal was in fact due to lack of work, lack of funds, lack of appropriation of funds, abolishment of the position or for other material changes in the duties of the position or the organization of the department.

Sec. 20-196. Flat fee reimbursement for certain attorney's fees incurred by employees who successfully appeal a termination or demotion.

(a) Conditions of a flat fee reimbursement. Flat fee reimbursement shall be provided only when a permanent status employee appeals the employee's termination or demotion through the merit system appeal process and, at the end of any available appeals (including any appeals filed in court by the employee or the city), the employee's termination or demotion is reversed. In no event shall reimbursement exceed the flat fee amount provided for in the city attorney's flat fee reimbursement schedule for the year that the appeal process reaches its conclusion. Flat fee reimbursement shall be available only for successful appeals of termination and demotion actions effective on or after March 1, 2016.

(b) Timing of requests for and payment of flat fee reimbursement. An employee who seeks to be paid a flat fee reimbursement under this provision must submit to the city's finance director documentation establishing: that the termination or demotion is reversed after all available appeals have been concluded; the amount the attorney billed the employee for services representing the employee in that merit system appeal process; and the amount the employee actually paid to the attorney for those services. This documentation must be submitted to the finance director within forty-five (45) days after the employee becomes eligible to apply for the flat fee reimbursement. If the employee timely submits sufficient documentation to the finance director, the finance director shall pay the applicable

flat fee reimbursement to the employee within thirty (30) business days after such submission. If the employee fails to submit sufficient documentation to the finance director, then the finance director shall not pay the applicable flat fee reimbursement.

Secs. 20-197 – 20-199. Reserved.

ARTICLE X. DOMESTIC PARTNERSHIPS.

Sec. 20-200. 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:]

Declaration of domestic partnership means a form provided by the city finance department in which two (2) people of the same gender agree to be jointly responsible for the necessities of life incurred during the domestic partnership and that all qualifications for domestic partnership are met when the declaration is signed. The form will require both partners to provide reasonable proof of their primary, regular and permanent residence address. The form must be signed under penalty of perjury and must be witnessed and notarized.

Domestic partnership means two (2) people of the same gender who live together in a single home and have signed a declaration of domestic partnership in which they attest that:

- 1) They share the same primary, regular and permanent residence and have lived together for the previous twelve (12) months (documentation must be submitted verifying joint residency);
- 2) They have a committed personal relationship with each other that is intended to be lifelong;
- 3) The employee's partner is a dependent of the employee under Georgia law;
- 4) They are not married as recognized by Georgia law to anyone or legally separated from anyone;

- 5) They have only one current domestic partner;
- 6) They are eighteen (18) years of age or older;
- 7) They are competent to enter into a contract;
- 8) They are not related by blood closer than would bar marriage in the state;
- 9) They are each other's sole domestic partner;
- 10) They agree to file a termination of domestic partnership within ten (10) days if any of the facts set out in this definition change;
- 11) Any prior domestic partnership declared under this section, in which their domestic partner participated with a third party, was terminated not less than twelve (12) months prior to the date of such affidavit and, that notice of termination was provided to the county in writing to the finance department;
- 12) They agree that the city employee shall have the sole and exclusive right to make all benefit elections on behalf of the domestic partner;
- 13) They agree that the city employee shall be responsible for any and all tax liability associated with any benefits provided to the domestic partner, including imputed taxable income and be subject to tax withholding or other tax treatment;
- 14) They agree under penalty of perjury under the laws of Georgia that all information in the declaration of domestic partnership is true and correct.

Live (d) together means that the two (2) people claiming domestic partnership status share the same primary, regular and permanent residence. It is not necessary that the legal right to possess the residence be in both names. Domestic partners do not cease to live together if one leaves the shared residence for a period not to exceed six (6) months, but intends to return. Whether the relationship between these two (2) people is or is not sexual is in no way relevant for the purposes of determining eligibility under this article.

Sec. 20-201. Effect of declaration of domestic partnership.

- (a) Rights and duties created. Neither this article nor the filing of a declaration of domestic partnership shall create any legal rights or duties from one of the parties to the other, except those that specifically refer to domestic

partnership. Nothing in this article shall be construed to explicitly or implicitly create a marital relationship. This article does not attempt to alter or affect the laws in the state that regulate any private or civil relationships. This article shall not be construed to conflict with, alter or affect the laws of this state or the United States.

- (b) Nothing contained in this article shall create any rights in either domestic partner that are not covered, included or created in the underlying insurance or benefits plan documents of the city.

Sec. 20-202. Establishing existence of domestic partnership.

- (a) Generally. Domestic partners, one of whom is an employee of the city, may establish the existence of their domestic partnership by presenting an original declaration of domestic partnership to the finance department of the city. The finance department will file the declaration. The standard declaration form will be available in the finance department during normal business hours.

- (b) Limitations. The finance department shall only accept for filing declarations of domestic partnership submitted by domestic partners at least one of whom is an employee of the city.

- (c) Amendments to the declaration. A partner may amend a declaration of domestic partnership filed with the finance department at any time to show a change in such partner's primary residence address.

- (d) New declarations of domestic partnership. No person who has created a domestic partnership may create another until twelve (12) months after a notice of termination has been signed and filed with the finance department.

Sec. 20-203. Records, copies, filing fees.

Records of the city's finance department. The finance director shall keep a record of all declarations of domestic partnerships, amendments to declarations of domestic partnership, and all notices of termination. The records shall be maintained so that amendments and notices of termination shall be filed with the declaration of domestic partnership to which they pertain.

Sec. 20-204. Ending domestic partnerships.

(a) Termination. A domestic partnership ends when:

- (1) One partner sends the other partner written notice that such partner has ended the domestic partnership;
- (2) One of the partners dies; or
- (3) The partners no longer meet one (1) or more of the qualifications or conditions for domestic partnership.

(b) Notice of termination. When a domestic partnership ends, the partners must execute a notice of termination naming the partner and stating that the partnership has ended. The notice of termination must be dated and signed under penalty of perjury by at least one (1) of the partners. The notice of termination must be filed with the finance department.

Notwithstanding any of the above, the city shall revoke a declaration of a domestic partnership if the city finds that the partners no longer meet one (1) or more of the qualifications or conditions for domestic partnership. The effective date of such termination will be retroactive to the date that such qualifications or conditions were no longer met. The city may revoke the declaration of the domestic partnership upon recommendation of the finance director and approval of the city manager without notice or hearing to the employee or domestic partner. Nothing in this Code shall create any right to a notice or hearing concerning the termination of the domestic partnership. In all circumstances, the provisions of the city's insurance plans shall control regarding coverage, eligibility and benefits provided to domestic partners.

ARTICLE XI. EMPLOYEE ORGANIZATIONS.

Sec. 20-205. Statement of policy.

It shall be the policy of the city to communicate with employee organizations in an orderly and professional manner, listening to input from such organizations where appropriate. This policy in no way obligates the city to bargain or contract with employee organizations. Further, this policy does not authorize employee

organizations or any county employees to engage in strikes, slowdowns, or other organized absences from work or their assigned work stations.

Sec. 20-206. - Definitions.

For the purposes of this article, certain terms and words are hereby defined. Where words are not defined herein, but are defined in section 1-2, those words shall have the meaning as defined therein. The following words, terms, and phrases, when used in this article, shall have the meanings given to them in this section, except where the context clearly indicates a different meaning:

An eligible employee is a city merit-status employee who is not:

- (1) A department head or other employee with actual authority to hire, fire, or discipline; or
- (2) A confidential employee who works directly with and reports directly to an elected official, department head, or department director.

Employee organization means any lawful organization that eligible employees have joined for the purpose of discussing issues of common interest regarding terms and conditions of employment with the city of Stonecrest, Georgia.

Sec. 20-207. Applicability of article.

This article shall apply to employee organizations of which eligible employees are members.

Sec. 20-208. Prohibited discrimination and retaliation.

- (a) There shall be no discrimination or retaliation against any eligible employee because of the fact that such employee is a member of an employee organization or has authorized a representative of an employee organization to communicate on his/her behalf in an appropriate manner regarding terms and conditions of city of Stonecrest employment. However, this section does not eliminate or limit the right to discipline employees for activities made unlawful by Georgia law or other applicable law (including, but not limited to, strikes or work slowdowns), or for conduct that violates city policy.

- (b) No employee shall be required, as a condition of employment with the city of Stonecrest, to become a member of any employee organization. There shall

be no discrimination or retaliation against an eligible employee because of the fact that the employee chooses not to be a member of an employee organization or otherwise chooses not to become involved in employee organization activities.

Sec. 20-209. Representative of the city.

The executive assistant shall designate a person in the human resources department to serve as the city's designated representative to meet with employee organizations when appropriate.

Sec. 20-210. Meet and confer.

When an employee organization requests a meeting with the city, the designated city representative will meet with a representative or representatives of that organization upon reasonable terms for the purpose of listening to input from the organization regarding employment terms and conditions of eligible employees the organization represents (but not for the purpose of collective bargaining or negotiating a contract). The designated city representative shall not be required to meet with a particular employee organization more often than once per month.

Sec. 20-211. Representation of eligible employees in merit system hearings.

Subject to the terms and conditions of the merit system and human resource department's written administrative procedures governing the conduct of merit system hearings, a representative of an employee organization shall be permitted to represent and assist an eligible employee who is an appellant in a merit system hearing under sections 20-193, 20-194, or 20-195 of this chapter: (1) if that representative is an attorney, or (2) if those written administrative procedures expressly authorize an appellant to designate a non-attorney to represent him/her in a merit system hearing and specify the procedure for an appellant to designate a non-attorney representative for such a hearing.

Sec. 20-212. Employee organization activities during scheduled work hours.

No eligible employee may spend scheduled working time (excluding approved break time) away from his/her work assignment and/or work station to participate in employee organization activities, unless the employee obtains his/her supervisor's

advance permission to spend that time away from his/her work assignment and/or work station. An eligible employee may spend up to one (1) hour per calendar month of paid scheduled working time in employee organization meetings or in meetings between employee organization representatives and the designated city representative or city elected officials, if the eligible employee has advance permission from his/her supervisor to spend that time away from his/her work assignment and/or work station. With the exception of that one (1) hour per calendar month, normal city and department rules regarding requests to take time off from work (using accrued paid leave or unpaid leave) apply to eligible employees' requests to take time away from their normal work assignments and/or work stations to participate in employee organization activities. The one-hour per calendar month of paid scheduled working time that an eligible employee may spend on certain employee organization activities as described above shall not accumulate if unused during a calendar month, and no payment shall be made for any such time that is not used.

Secs. 20-213 – 20-220. 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.

STATE OF GEORGIA
DEKALB COUNTY
CITY OF STONECREST

ORDINANCE NO. _____

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 _____,
2019.

Approved:

Jason Lary, Sr., Mayor

As to form:

Winston A. Denmark, City Attorney

Attest:

Megan P. Reid, City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: Chapter 26: Wreckers Ordinance

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

Council Meeting: 5/13/2019

SUBMITTED BY: CITY ATTORNEY WINSTON DENMARK

PURPOSE: 2ND READING

HISTORY: 1ST READING ON 4-22-2019

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: APPROVAL OF ORDINANCE

**AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA ADOPTING
CHAPTER 26 (WRECKERS) OF THE CITY CODE.**

WHEREAS, the City of Stonecrest, Georgia Mayor and City Council are authorized by the City Charter to provide for the general health, safety and welfare of the citizens of the City; and

WHEREAS, the Mayor and City Council find it to benefit the welfare of the citizens to provide regulation governing wreckers that substantially mirror DeKalb County's existing regulations; and

WHEREAS, this Ordinance shall be adopted as part of the City of Stonecrest City Code, as Chapter 26 (Wreckers).

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 "Chapter 26. Wreckers" to read and be codified as follows:

CHAPTER 26. WRECKERS.

ARTICLE I. IN GENERAL

Sec. 26-1. Definitions.

For the purposes of this Chapter, certain terms and words are hereby defined. Where words or terms are not herein defined, but are defined in any other applicable sections of this Code or state law, now and as they may be amended hereafter, those words shall have the meaning as defined therein. As used in this Chapter, unless the context otherwise indicates, the following words and terms shall have the meaning ascribed to them:

Department means the police department or such other department as may hereafter be designated to enforce this chapter.

Director means the chief of police or the designee thereof. When a department other than the police department is designated to enforce this chapter, the term means the director of such department or the designee thereof.

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

Sec. 26-2. Compliance.

It shall be unlawful for any person either as principal, agent or employee to use or operate upon any of the streets of the City any wrecker or towing car without complying with the provisions of this chapter.

Sec. 26-3. Issuance of Citation for violation.

The director may issue citations for violations of this chapter.

Sec. 26-4. Reserved.

Sec. 26-5. Defacing Streets, Sidewalks or Curves.

It shall be unlawful for any person to operate or cause to be operated, any wrecker within the City without first having obtained a business license from the City. The business license shall not be transferable.

Sec. 26-6. Revocation of license.

(a) The department shall petition the finance department to revoke the business license of any wrecker owner or operator when such person has been found in violation of any of the terms of this chapter or upon any of the following grounds:

- (1) If the registration was procured by fraudulent conduct or false statement of a material fact as to ownership, use, possession or operation.
- (2) If the owner or licensee is found at the scene of an accident in violation of the provisions of this chapter.

(3) If the licensee uses a police radio to obtain information as to location of the scene of the accident.

(4) If the licensee shall pay, in the form of a gratuity, any person not involved in the accident for information as to the location of the accident.

(b) This revocation shall terminate all authority and permission granted by the registration to the wrecker owner. Any person whose registration has been revoked shall not be eligible to again apply for a license for a period of one (1) year from the date of the issuance of the original license.

(c) Any person whose license has been revoked by the finance department may file an appeal therefrom to Mayor and City Council within twenty (20) days from the date of this revocation. Mayor and City Council shall give the licensee at least ten (10) days' notice in advance of the date of a public hearing for the purpose of determining whether or not the business license to operate a wrecker shall be revoked. Upon hearing the facts Mayor and City Council may affirm, reverse, vacate or modify the order of revocation.

Secs. 26-7. 26-8. - Reserved.

Sec. 26-9. Information printed on side of wrecker.

It shall be unlawful for any person, either as principal, agent or employee, to operate or cause to be operated within the City any wrecker unless such vehicle shall have lettered in permanent paint on each side in plain view the following information: the name of the person owning and causing wrecker to operate on the streets of the City, the address from which the wrecker is operating and the telephone number. This lettering shall be on a contrasting color to the color of the wrecker and shall be at least two and one-half (2 ½) inches in height. Temporary or removable magnetic signs shall not be permitted.

Sec. 26-10. Weekly reports.

- (a) The owner or operator of any business providing wrecker service to or storage facilities for the residents of the City shall furnish to the department, on forms of a type approved by the department, a typed, weekly report listing all motor-driven vehicles towed from or stored within the City and remaining within the possession of the business on the Friday following the towing or storage. The vehicle shall be listed in each subsequent weekly report so long as it remains in the possession of the business.
- (b) Any person in the business of auto salvage or otherwise in the business of selling used parts off vehicles within the seller's possession and any person in the business of crushing, cutting up or otherwise permanently destroying vehicles for scrap metal shall furnish to the department, on forms of a type approved by the department, a typed, weekly report listing all vehicles obtained for salvage, used parts of scrap metal during the weekly reporting period. The weekly reporting period shall begin at 12:01 a.m. each Saturday.
- (c) The weekly reports required by subsections (a) and (b) of this section shall be due each Tuesday and shall contain the name of the person reporting; the authority under which the vehicle was towed, stored or salvaged for parts or scrap metal; a description of the vehicle; the location of its present storage site, if applicable; its tag number, if any; its year and make; its color; and its vehicle identification number.
- (d) If any of the information required by subsection (c) of this section cannot be obtained for the weekly report required by subsection (a) of this section without damaging the vehicle, the fact shall be conveyed by the owner or operator of the wrecker service or

storage facility to the department by telephonic communication
and shall also be set forth in the weekly report.

Sec. 26-11. Response to accident scene upon proper requests only.

It shall be unlawful for the owner of any wrecker, or the agent, representative or employee of same, to go to any place where an accident has occurred unless called by the driver or the owner of the disabled vehicle or by the owner's authorized representative, or by the department dispatcher. It shall be unlawful for the owner of any wrecker, or the agent, representative or employee of same, to go to the place of a wreck by reason of information received by police radio.

Sec. 26-12. Responsibility for cleaning accident debris from street and right-of-way.

All wrecker operators, after having been called to the scene of an accident for the purpose of removing a damaged vehicle, shall clean all the debris caused by the accident from the street and right-of-way before they leave. If two (2) or more wreckers are called to the same accident scene, they shall be equally responsible for cleaning.

Sec. 26-13. Solicitation for business by city employee.

It shall be unlawful for any City employee to solicit business for any wrecker owner or operator.

Sec. 26-14. Cruising or parking for purpose of soliciting towing work.

It shall be unlawful to cruise or park on any street or bridge in a wrecker and solicit towing work.

Sec. 26-15. Notification of police department upon removal of vehicles at request of any person other than officer.

The operator of any wrecker removing a private motor vehicle from another person then having possession of such motor vehicle at the request of any person other than a City or County officer on duty for the department shall report this action to the department along with the following information: the location of its present storage place, a description of the vehicle, the tag number and the vehicle identification number. This report shall be made by the wrecker operator by telephonic communication to the City within one (1) hour of the deposit of the vehicle at its storage point.

Sec. 26-16 – 26-39. Reserved.

ARTICLE II. BOOTING OF VEHICLES ON PRIVATE PROPERTY

Sec. 26-40. Title and purpose.

This article shall be known as the Booting of Vehicles on Private Property Ordinance. This article shall specifically apply to businesses operating booting or vehicle immobilization services on private property and immobilization device operators, as defined herein. It shall be unlawful for any person, business, principal, agent, employee or independent contractor to use, operate, charge for, or retain services for the use of any booting services or vehicle immobilization services on private property located within the City without complying with the provisions of this article.

Sec. 26-41. Definitions.

- (a) Wherever the term “City” is used in this article, it shall be construed to mean the City of Stonecrest, Georgia.
- (b) Words or phrases not defined in this chapter, but defined in applicable state law or the Code of Stonecrest, shall be given that

meaning. All other words or phrases shall be given their common ordinary meaning unless the context requires otherwise. The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them below except where the text clearly indicated a different meaning:

- (1) *Business license*, as used in this article, means a business occupation tax certificate issued pursuant to applicable law. The terms “business license” and /or “business occupation tax certificate” are interchangeable and are defined pursuant to chapter 15 of the Code of Stonecrest, Georgia.
- (2) *Boot, booting, mechanical locking device, or vehicle immobilization device*, as used in this article, are interchangeable and mean any mechanical device or boot that is designed or adopted to be attached to a wheel, tire, or other part of a parked motor vehicle so as to prohibit the motor vehicle’s usual manner of movement or operation.
- (3) *Occupant* means any person, entity, business, tenant, or individual(s) that is occupying the premises or property where vehicle is parked or located, whether or not that occupant has a formal lease.
- (4) *Operator* means any person, employee, sole proprietor, independent contractor, partnership or similar business entity, operating booting or vehicle immobilization devices for a vehicle immobilization service.
- (5) *Parking lot, premises, property and area* mean the location and real property at which the vehicle is located, with or without permission of the property owner, and continue to retain their ordinary meaning.

(6) *Permit*, as used in this article, means a permit issued by the police department for the use, service or operation of a booting or vehicle immobilization device.

(7) *Private property owner* means any person, entity, business, or individual(s) that is the record owner of the real property on which a vehicle is located.

(8) *Towing and wrecker services* as ordinarily defined are not interchangeable with booting and shall be governed separately by Article I of Chapter 26 of the City Code, as amended.

(9) *Vehicles* as used herein shall mean all cars, trucks, passenger vehicles, and tractor-trailer trucks of all classes and axles.

(10) *Vehicle immobilization service* means a business, person, including a sole proprietor, independent contractor, partnership or similar business entity offering booting or other services anywhere in the City whereby vehicles are immobilized by the attachment or use of a chain, booting or vehicle immobilization device.

Sec. 26-42. Business occupation tax certificate.

It shall be unlawful for any person to operate or cause to be operated any immobilization device or vehicle immobilization service within the City without first having obtained a business occupation tax certificate in compliance with Chapter 15 of this Code, where applicable.

Sec. 26-43. Permit to operate a vehicle immobilization service.

(a) It shall be unlawful for any vehicle immobilization service or operator to operate within the territorial limits of Stonecrest, Georgia without having obtained a permit issued by the police department or their designee, as provided in this article.

(b) The owner or officer of a vehicle immobilization service desiring to obtain a permit required by this article shall file an application with the DeKalb County police department on forms to be prepared and approved by the police department. Applicants for the permit or renewal of a permit shall make themselves available for photographing, fingerprinting, and such other background investigation as may be required by the police department.

(c) The permit application shall state:

- (1) The name and address of the applicant;
- (2) Where the business is located;
- (3) Nature and character of the business to be carried on;
- (4) Valid addresses of all property for which the permit is requested;
- (5) A copy of a current and valid business license or business occupation tax certificate;
- (6) If a sole proprietor, the name of the owner;
- (7) If a partnership, the names of the partners;
- (8) If a corporation, the names of the officers;
- (9) The charges to be imposed for various services;
- (10) Type of body camera(s) to be used;
- (11) Amounts and types of insurance held;
- (12) Such other information as may be required by the police department; and
- (13) Shall be sworn by the applicant or agent thereof.

(d) No permit under this article shall be issued to an applicant unless the applicant has a valid and current business occupation tax certificate to do business in the State of Georgia.

(e) No permit under this article shall be issued to any applicant who has been convicted in this state or any other state within three (3) years immediately prior to the application for a permit or license

of a crime involving distribution or possession of illegal narcotics, sex offenses, financial crimes, or any other crime involving moral turpitude. Any person operating a vehicle immobilization device without a permit may be cited or charged with criminal trespass or violation of any other applicable law.

(f) Should any vehicle immobilization service with a permit obtained pursuant to this article be charged with committing any crime as described in subsection (e) above, then such charge shall constitute the basis for adverse action, including suspension or revocation of the license or permit by the chief of police.

(g) A permit will be valid for a period of twelve (12) months from the date issued and shall be reviewed on or before its expiration.

(h) Fees under this article shall be recommended by the police department for approval by Mayor and City Council.

(i) The City, department or their designee may revoke the permit of any vehicle immobilization service or operator when such business or person has been issued a citation and found to be in violation of any of the terms of this chapter or in violation of any other applicable law, per the policies and procedures as established by the police department.

Sec. 26-44. Permit for operators of a vehicle immobilization device.

(a) It shall be unlawful for an individual, independent contractor or employee to operate or use a vehicle immobilization device unless he/she has obtained a permit under this section.

(b) Every individual desiring to obtain a permit shall file an application with the police department on forms to be prepared and approved by the police department, subject to the policies and permit requirements as established by the department. Persons applying for the permit or renewal shall make themselves available for photographing, fingerprinting, and such other

background checks or investigation as may be required by the police department.

(c) The application shall state:

- (1) The name and address of the applicant/operator;
- (2) The telephone number of the applicant/operator;
- (3) The applicant's driver's license number or state issued identification number
- (4) Such other information as may be required by the police department; and
- (5) Shall be sworn by the applicant.

(d) Once issued, operators shall carry with them their permit or a copy of their permit at all times when they are in the process of installing or removing a vehicle immobilization device.

(e) No permit under this article shall be issued to any applicant who has been convicted in this state or any other state within three (3) years immediately prior to the application for a license or permit of a crime involving distribution or possession of illegal narcotics, sex offenses, financial crimes, or any other crime involving moral turpitude. Any person operating a vehicle immobilization device without a permit may be cited or charged with criminal trespass or violation of any other applicable law.

(f) Should any individual with a permit obtained pursuant to this article be charged with committing any crime as described in subsection (e) above, then such charge shall constitute the basis for adverse action, including the immediate suspension or revocation of the permit by the chief of police.

(g) A permit will be valid for a period of twelve (12) months and shall be renewed on or before its expiration.

(h) Fees under this article shall be recommended by the police department for approval by the Mayor and City Council.

- (i) The department or their designee may petition to revoke the permit of any vehicle immobilization service or operator when such business or person has been issued a citation and found to be in violation of any of the terms of this chapter or in violation of any other applicable law, and subject to policies and procedures as established by the police department.

Sec. 26-45. Revocation of business license.

- (a) The department or their designee may petition the City to revoke the business license of any vehicle immobilization service or operator when such service or operator has been convicted or found to be in violation of any of the terms of this article or in violation of any other applicable law, ordinance or regulation.
- (b) A business license revocation shall immediately terminate all permits, authority and permission granted to the vehicle immobilization service and operator. Any person whose business license has been revoked shall not be eligible to again apply for a permit for a period of one (1) year from the date of revocation.
- (c) Any person whose business license has been revoked may file an appeal pursuant to chapter 15 of the Code, as amended.

Sec. 26-46. Vehicle immobilization device operations, generally.

- (a) Vehicle immobilization and booting fees shall be limited as provided herein. Any vehicle immobilization service shall not charge the owner or operator of any immobilized vehicle or personal property for the removal of the vehicle immobilization device in excess of the below fees within a twenty-four-hour time period:
- Semi-trucks including those without a trailer \$150.00
- All vehicles other than semi-trucks \$ 85.00

- (b) The operator must provide and shall have the means to accept and receive payment by cash, check, credit card, or debit card at no additional charge. The operator shall provide and have the means to issue a receipt upon payment.
- (c) This article shall not prohibit the towing of vehicles left or abandoned on property for more than twenty-four (24) hours, pursuant to chapter 26 of the Code of Stonecrest, Georgia, and subject to all other applicable laws.
- (d) A vehicle immobilization service must maintain a twenty-four-hour per day, three hundred sixty-five (365) days per year phone number that is staffed by a live operator to communicate immediately with the owner or driver of a vehicle that has been immobilized by the vehicle immobilization service.
- (e) Vehicle immobilization devices shall be removed within one (1) hour of the initial request and payment of the permissible fee. The operator shall have immediate access to equipment to remove and/or release the vehicle immobilization device. The removal fee shall be forfeited and the vehicle immobilization device released at no charge if the operator does not remove the vehicle immobilization device within one (1) hour after being contacted by the owner or operator of the immobilized vehicle.
- (f) Property owners or occupants that assess a charge for parking may use vehicle immobilization devices only when a paper or electronic receipt for each paid parking charge is provided at the time of payment. Equipment used to collect payment for permitted parking must be on-site and be capable of producing a receipt. The receipt shall include the address of the lot and time and date of payment, and if applicable, any time limitations to which the parking charge applies. Properties, parking lots or areas that assess a charge for parking and allow the operation of a

vehicle immobilization device must provide parking payment options that include cash, debit, and credit card options. No fee shall be assessed for the removal of a vehicle immobilization device when the owner or operator of the vehicle can immediately show a receipt and proof of parking fees for permitted parking within the time their vehicle is located on the premises.

(g) The operator must wear an identification badge issued by the vehicle immobilize service listing the name and address of the vehicle immobilize service employing the operator, all applicable booting permit numbers issued by the City of Stonecrest, the operator's first name, and a passport sized photo of the operator.

(h) The operator shall at all times carry their City-issued permit.

(i) The operator shall wear a uniform issued by the vehicle immobilization service with the name of the vehicle immobilization service employing the operator.

(j) During hours of operation, the operator shall wear a body camera, the type and design which shall be approved by the police department as part of the permit process. Body camera recordings shall be maintained by the operator for a period not less than thirty (30) days. Recordings shall be provided to the City or police department upon verbal or written request.

(k) It shall be unlawful for any person, either as principal, agent or employee, to operate within the territorial limits of the City any vehicle to assist in operation of a vehicle immobilization service unless the vehicle shall have displayed on each side in plain view the name of the vehicle immobilization service, the address from which the vehicle immobilization service is operating and the telephone number of the vehicle immobilization service.

- 435 (l) It shall be unlawful for an operator to immobilize vehicles on any
436 private property unless contacted by an occupant of the property
437 requesting the immobilization of an unauthorized vehicle or
438 without having entered into a valid written contract for vehicle
439 immobilization services with the private property owner, lawful
440 lessee, managing agent, or other person or occupant in control of
441 the property.
- 442 (m) It shall be unlawful for either a vehicle immobilization service or
443 an operator to make any payment to an owner, occupant, or agent
444 of a parking lot in excess of the reasonable and customary fee
445 ordinarily charged by the owner, occupant, or agent of the
446 parking lot for parking thereon, and any such excess payment
447 shall be considered a kickback.
- 448 (n) Emergency vehicles used in police, fire or medical emergencies
449 shall not be immobilized for any reason. Upon proof that an
450 unmarked vehicle is used for emergency purposes, the vehicle
451 immobilization device shall be removed immediately at no
452 charge.
- 453 (o) The police department or their designee shall have the authority
454 to request the immediate removal of a vehicle immobilization
455 device for any emergency or public safety purpose.
- 456 (p) It shall be unlawful to immobilize any occupied vehicle. The
457 person occupying the unauthorized vehicle shall either pay the
458 appropriate fee for the privilege of parking at the location or
459 immediately remove the vehicle from the lot.
- 460 (q) It shall be unlawful for an operator to immobilize any vehicle
461 parked for less than twenty (20) minutes. Just cause for
462 immobilizing a vehicle parked for over twenty (20) minutes shall
463 be established by no less than two (2) time-stamped photographs

which clearly depict the parking space, the parked vehicle, and
license plate of the parked vehicle.

Sec. 26-47. Notice Signs.

(a) It shall be unlawful for any person, except for law enforcement
personnel, to affix a vehicle immobilization device to any
automobile parked on private property within the City, regardless
of whether a charge for parking is assessed, unless the following
conditions are met:

(1) At every parking facility, lot or area where vehicle
immobilization may occur signs (Sample Sign #1) stating parking
prohibitions are in effect and booting may occur shall be posted
at every point of ingress and egress to or from the premises.
Parking areas with no designated ingress or egress must place
signs every fifty (50) feet across the property frontage. The sign
shall be at a minimum of twenty-four (24) inches by thirty (30)
inches in size and lettering on the sign shall be a minimum of one
(1) inch in height. The sign shall be positioned so that the bottom
edge is at least seven (7) feet from the ground. The wording on
such signs shall consist of the following information and be
consistent with the Sample Sign #1:

- a. A booting symbol;
- b. The statement "Warning Unauthorized Vehicles Booted."

Sample Sign #1:



(2) Signs shall also be erected within the lot, so that a sign can be clearly visible from each row of parking. The sign (Sample Sign #2) shall be at a minimum of twenty-four (24) inches by thirty (30) inches in size and lettering on the sign shall be a minimum of one (1) inch in height. The sign shall be positioned so that the bottom edge is at least seven (7) feet from the ground. Signs larger than the measurements herein shall not be subject to the requirements of the sign ordinance. The wording on such signs shall consist of the following information and be consistent with Sample Sign #2:

- a. The statement "Warning Booting Enforced;"
- b. The hours of booting enforcement;
- c. The name of the business served by the parking lot or the name of the shopping center if more than one (1) business occupant;
- d. The maximum fees for removal of the device;

- e. The name of the vehicle immobilization service and current phone number to contact for removal of the immobilization device;
- f. The statement "Booting devices shall be removed within one (1) hour of contact with company representative or any fees shall be waived;"
- g. The statement "Chapter 26 of the Code of Stonecrest, Georgia;" and
- h. Contain a matrix code or website address provided by the police department linking to the City Code.

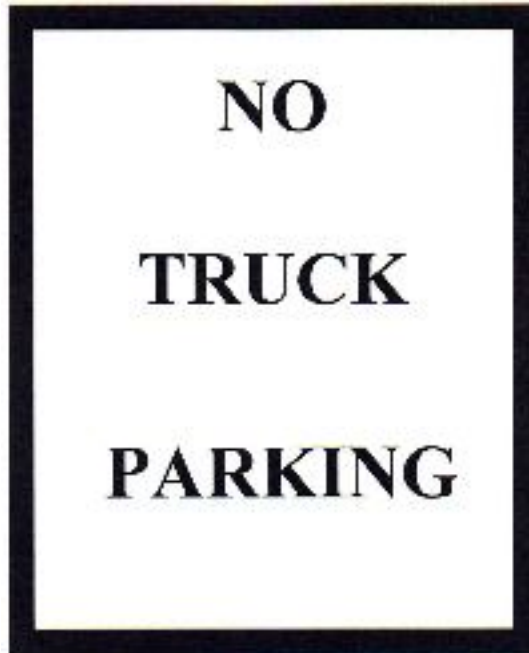
Sample Sign #2:



- (3) Any property owner or occupant prohibiting parking of semi-trucks on the lot shall post signs at every point of ingress and egress to or from the premises stating semi-truck parking is prohibited and booting may occur. Parking areas

with no designated ingress or egress must place signs every fifty (50) feet across the property frontage. The sign shall be positioned so that the bottom edge is at least seven (7) feet from the ground. The wording on such signs shall consist of the following information and be consistent with Sample Sign #3:

Sample Sign #3:



(4) All signs must be legible, not faded, and unobscured by vegetation.

(5) Lettering on all signs shall be black on white. If vehicle immobilization devices are to be utilized before 7:00 a.m. or after 6:00 p.m., the signs shall have a reflective grade background, and be illuminated if out of headlight range.

Sec. 26-48. Vehicle immobilization on residential property.

In addition to the requirements in this chapter, no operator or any partner, member, officer, employee, or contractor of such operator shall immobilize any motor vehicle in a driveway, parking lot, or parking area that is designated for residential parking or residential use unless the owner or driver of the motor vehicle has been provided with posted or written notice of the use of vehicle

536 immobilization devices on said property. Any device applied to any such motor
537 vehicle in violation of this section shall be removed without the payment of any
538 fee.

539 **Sec. 26-49. Violations.**

540 (a) The provisions of this article may be enforced by authorized or designated
541 city employees, including police officers and code enforcement officers.

542 (b) Any person, operator, or vehicle immobilization service who does anything
543 prohibited by or fails to do anything required by this article, upon citation by an
544 authorized city employee, including, but not limited to a police officer or a code
545 enforcement officer, and upon conviction of the violation in a court of competent
546 jurisdiction, which includes the Magistrate or State Courts of DeKalb County, and
547 shall be subject to a fine and/or imprisonment with the following minimum
548 penalties:

549 (1) Upon a first conviction of any violation of this article, the court shall
550 impose a fine of not less than two hundred dollars (\$200.00) in addition to
551 any other penalty or punishment imposed by the court.

552 (2) Upon a second conviction of violation of this article, within one (1)
553 year measured from the date of any previous conviction of a violation of this
554 article, the court shall impose a fine of not less than five hundred dollars
555 (\$500.00) in addition to any other penalty or punishment imposed by the
556 court.

557 (3) Upon a third conviction of a violation of this article, within one (1)
558 year measured from the date of any previous conviction of a violation of this
559 article, the court shall impose a fine of not less than one thousand dollars
560 (\$1,000.00) in addition to any other penalty or punishment imposed by the
561 court.

562 (c) Upon three (3) convictions under this article, the police department may
563 request and the city shall have the discretion to review and revoke a business

license subject to the notice and hearing requirements found under chapter 15 of the Code.

Sec. 26-50. Insurance.

(a) All vehicle immobilization services under this article shall procure, or cause to be procured, and keep continuously in full force and effect during the duration of operations, and shall keep on file with the police department, a policy of comprehensive general liability insurance and business auto liability insurance on a certificate of insurance, issued by a casualty insurance company authorized to do business in this state and in the standard form approved by the insurance commissioner of the state.

(b) The comprehensive general liability insurance must be on a broad form and provide limits of liability for bodily injury and property damage in an amount of five hundred thousand dollars (\$500,000.00) per occurrence with a one-million-dollar (\$1,000,000.00) aggregate.

(c) Certificates of insurance for companies doing business in the city, covering:

(1) Statutory workers compensation insurance, or proof that the vehicle immobilization service is not required to provide such coverage under state law;

(2) Professional liability insurance with a limit of one million dollars (\$1,000,000.00); and

(3) Commercial general liability insurance covering all operations with a combined single limit of one million dollars (\$1,000,000.00).

(d) Each insurance policy must state that it may not be canceled, materially modified or non-renewed unless the insurance company gives the police department thirty (30) days' advance written notice.

Sec. 26-51. Enforcement of this article.

This article shall be effective upon adoption by the board of commissioners and approval by the chief executive officer (the "effective date"). Except for the fee and time restrictions and requirements in section 26-46 of this article, which section shall be enforceable on the effective date, vehicle immobilization services and operators that are subject to this article shall have ninety (90) days from the effective date to comply with all other sections in this article.

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 _____,
2019.

Approved:

Jason Lary, Sr., Mayor

As to form:

Winston A. Denmark, City Attorney

Attest:

Megan Reid, City Clerk



CITY COUNCIL AGENDA ITEM

**SUBJECT: PARKS AND RECREATION LANDSCAPING, MAINTENANCE, AND
JANITORIAL SERVICE RFP# 2019-009**

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

Council Meeting: 5/13/2019

SUBMITTED BY: SEAN DE PALMA

**PURPOSE: AGREEMENT FOR PARKS AND RECREATION LANDSCAPING
MAINTENANCE, AND JANITORIAL SERVICE**

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: APPROVAL FROM MAYOR AND COUNCIL



RE: Selection Recommendation for Parks & Recreation Landscaping, Maintenance, and Janitorial Services Bid #2019-009

BID #2019-009 was published on 1MAR19 and was open to the end of business on 20MAR19. The CITY received two (2) submissions for potential vendor, Optech Monette, LLC. and Pro Cutters Landscaping Incorporated. On 1APR19 the CITY opened both submissions within the CITY's Council Chambers and was video recorded. Two CITY employees, one representative from the Finance Department and one employee from the Parks and Recreation Department. Each submission had an original and three (3) hardcopies.

Selection Committee- The selection committee consist of four members, three (3) CITY employees and one (1) member of CITY Council. One copy of each potential vendor's submission was given to a member of the selection committee along with two (2) of the selection scoring criteria sheet. Selection scoring criteria sheet retained seven (7) areas of evaluation that totaled a score of one-hundred (100.)

	Potential Vendor	
	Optech Monette, LLC	Pro Cutters Landscaping Incorporated
Selection Committee Member		
Sabrina Wright, Economic Development Director	93	59
Council Member Jimmy Clanton	100	60
Plez Joyer, Deputy City Manager	90	90
Sean De Palma, Parks & Recreation Director	95	77
Score Average	94.5	71.5

Notable variations- The selection committee members indicated three (3) key variations; 1. Cost for Services and Innovation in Potential Cost Savings, 2. Municipal Park Maintenance Experience and Qualifications, and 3. Organizational Capacity to Supervise Municipal Park Maintenance. Within area (1) Cost for Services and Innovation in Potential Cost Savings ratings varied from 5 to 9 noting estimated cost for Optech Monette, LLC. at \$961,524 and Pro Cutters Landscaping Incorporated at \$537,858. Area (2) Municipal Park Maintenance Experience and Qualifications ratings varied from 10 to 20 noting Pro Cutters Landscaping Incorporated not retaining the



required experience and will sub-contract out portions of the required services. Area (3) Organizational Capacity to Supervise Municipal Park Maintenance ratings varied from 5 to 10 noting Pro Cutters Landscaping Incorporated not having a Certified Sports Field Manager, not retaining the required experience and will sub-contract out portions of the requested services.

As the highest scoring vendor, the CITY's Purchasing Section issued a letter of final offer to Optech Monette, LLC regarding pricing. The CITY's Purchasing Section in conjunction with the CITY's Parks and Recreation Department held a telephone conference with Optech Monette, LLC. Optech Monette, LLC. then submitted a final offer of \$318,270 for the remaining of the year, June to December of 2019.



CITY COUNCIL AGENDA ITEM

SUBJECT: PANOLA ROAD WIDENING PROJECT IGA

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

Council Meeting: 5/13/2019

SUBMITTED BY: PLEZ JOYNER

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: APPROVAL BY MAYOR AND COUNCIL

**INTERGOVERNMENTAL AGREEMENT BETWEEN DEKALB
COUNTY, GEORGIA AND THE CITY OF STONECREST, GEORGIA
FOR RIGHT-OF-WAY ACQUISITION, AND FOR OTHER PURPOSES**

THIS INTERGOVERNMENTAL AGREEMENT (the “Agreement”) is entered into by and between DeKalb County, Georgia ("County") and the City of Stonecrest, Georgia ("City"). The County and the City may be referred to herein as a “Party” or collectively as the “Parties.” The County and the City are executing this Agreement with respect to the following matters:

Recitals

WHEREAS, DeKalb County, Georgia is a constitutionally created political subdivision of the State of Georgia;

WHEREAS, the City of Stonecrest is a municipality created by the 2016 Georgia General Assembly pursuant to Senate Bill 208; and

WHEREAS, the County has been approved to receive funds from the Georgia Department of Transportation (“GDOT”) for certain transportation improvement projects to include the Panola Road Corridor Improvement Project–PI#0006879 per the Atlanta Regional Commission’s (“ARC”) Transportation Improvement Program (“the Project”); and

WHEREAS, the County and City desire to work cooperatively to effectuate the Project by the County to coincide with the City’s intent to make improvements to City roads, streets, and sidewalks; and

WHEREAS, the County and City desire to enter into this Intergovernmental Agreement (“Agreement”) to allow the County to complete the design of the project and to execute the right-of-way acquisition phase of the Project in compliance with GDOT requirements and the City will reimburse the County for any and all expenses not covered by GDOT funds and/or any funds required to be reimbursed to GDOT in the event construction does not occur for the Project; and

WHEREAS, the County and the City desire to maintain a mutually beneficial, efficient and cooperative relationship that will promote the interests of the citizens of both jurisdictions.

NOW THEREFORE, in consideration of the foregoing recitals and the covenants, promises, terms, mutual obligations and conditions set forth below, and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the County and the City agree as follows:

Terms

Section 1. Right-of-way acquisition services for the Project will consist of acquiring all necessary rights-of-way and easements on Panola Road from SR 212 (Browns Mill Road) to Fairington Road in accordance with the final plans authorized by GDOT via a notice to proceed to DeKalb County;

right-of-way acquisition services include, but are not limited to, title searches, appraisals, actual land and improvements acquisition, other acquisition services, relocation, demolition, closing and legal services related to any required condemnations for an estimated 146 parcels ("ROW Acquisition").

Section 2. The County will remain the sponsor of the Project with GDOT. The County is wholly responsible for ensuring compliance with all policies, procedures and agreements with GDOT necessary to receive funding for the Project. The parties acknowledge that funding for the ROW Acquisition will be provided on a reimbursement basis to the County by GDOT and a portion of the ROW Acquisition will be paid through local funding from the County. The County portion shall be reimbursed to the County by the City as indicated in Section 4 below.

Section 3. The County will be responsible for the ROW Acquisition and final design for the Project. The County shall be responsible for managing the ROW Acquisition and shall pay all required costs, to be reimbursed by the City pursuant to Section 4 below. Any change approved by GDOT to the scope of work for the ROW Acquisition, the ROW Acquisition price or the time period for completion of ROW Acquisition shall be adopted and approved by the Governing Authority of the County, and the City hereby agrees to provide reimbursement for any such changes.

Section 4. The City shall be responsible for reimbursing the County for final design costs and for the cost of the County's portion of the ROW Acquisition budget approved by GDOT for the ROW Acquisition for the Project within the City's corporate limits and any other costs exceeding the amount reimbursed to the County by GDOT. The County will provide monthly reimbursement requests to the City including invoices for the work completed to date, proof of payment by the County, the amount to be reimbursed by GDOT and the amount to be reimbursed by the City. The City shall make reimbursement payments to the County no later than 30 days after submittal of the County's monthly reimbursement request. Notwithstanding the foregoing or any other term or provision in this Agreement, the Parties acknowledge and agree that the total amount of costs, expenses or payments for which the City shall be obligated to reimburse the County for the ROW Acquisition and/or the Project shall not exceed two million dollars (\$2,000,000.00).

Section 5. The term of this Agreement shall begin on the Effective Date (which is the later of the dates each Party signs this Agreement) and shall continue for five years, with an automatic renewal for an additional year at the end of the five year term, if the ROW Acquisition delineated herein has not been completed and finalized. This Agreement will terminate upon completion of the ROW Acquisition phase of the Project and payment by the City of all amounts due for reimbursement to the County.

Section 6. The Parties agree to mutually work with GDOT and ARC to obtain additional federal and/or state funding to complete the construction phase of the Project. If for any reason construction of the Project does not proceed or is not completed and GDOT requests reimbursement of the funds disbursed to the County for the Project, the City agrees to reimburse the County for any funds the County is required to repay GDOT.

Section 7. All required notices shall be given by certified first class U.S. Mail, return receipt

requested. The Parties agree to give each other non-binding duplicate facsimile notice. All notices sent to the addresses listed below shall be binding unless said address is changed in writing no less than fourteen (14) days before such notice is sent. Future changes in address shall be effective upon written notice being given by the City to the County Executive Assistant or by the County to the City Manager via certified first class U.S. mail, return receipt requested. Notices shall be addressed to the Parties at the following addresses:

If to the County: Executive Assistant
 1300 Commerce Drive, 6th Floor
 Decatur, Georgia 30030
 Fax: 404-687-3585

With a copy to: County Attorney
 1300 Commerce Drive, 5th Floor
 Decatur, Georgia 30030
 Fax: 404-371-3024

If to the City: City Manager
 City of Stonecrest
 3120 Stonecrest Blvd.
 Stonecrest, Georgia 30038
 Fax:

With a copy to: City Attorney
 City of Stonecrest
 3120 Stonecrest Blvd.
 Stonecrest, Georgia 30038
 Fax:

Section 8. This Agreement may be extended beyond the term delineated herein by mutual written consent of both Parties so long as such extension is approved by official action of the City Council and approved by official action of the County Governing Authority.

Section 9. Neither Party shall assign any of the obligations or benefits of this Agreement.

Section 10. This Agreement constitutes the sole contract between the City and the County. The terms, conditions, and requirements of this Agreement may not be modified, except by Amendment. No verbal agreement or conversation with any officer, agent, or employee of either the County or the City, either before or after the execution of the Agreement, shall affect or modify any of the terms or obligations herein contained. No representations, oral or written, shall be binding on the Parties unless expressly incorporated herein. No Amendment shall be enforceable unless approved by official action of the City and County as provided by law or in this Agreement.

Section 11. If a court of competent jurisdiction renders any provision of this Agreement (or portion of a provision) to be invalid or otherwise unenforceable, that provision or portion of

the provision will be severed and the remainder of this Agreement will continue in full force and effect as if the invalid provision or portion of the provision were not part of this Agreement. No action taken pursuant to this Agreement should be deemed to constitute a waiver of compliance with any representation, warranty, covenant or agreement contained in this Agreement and will not operate or be construed as a waiver of any subsequent breach, whether of a similar or dissimilar nature. This Agreement is governed by the laws of the state of Georgia without regard to conflicts of law principles thereof. Should any Party institute suit concerning this Agreement, venue shall be in the Superior Court of DeKalb County, Georgia. Should any provision of this Agreement require judicial interpretation, it is agreed that the court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one Party by reason of the rule of construction that a document is to be construed more strictly against the Party who itself or through its agent prepared the same, it being agreed that the agents of all Parties have participated in the preparation hereof. If any provision of this Agreement, or any portion thereof, should be ruled void, invalid, unenforceable or contrary to public policy by any court of competent jurisdiction, then any remaining portion of such provision and all other provisions of this Agreement shall survive and be applied, and any invalid or unenforceable portion shall be construed or reformed to preserve as such of the original words, terms, purpose and intent as shall be permitted by law.

Section 12. This Agreement shall inure to the benefit of, and be binding upon the respective parties' successors.

Section 13. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be first negotiated in good faith by the parties via mediation. Mediation shall be held at the DeKalb Mediation Center, with a mediator selected by the parties. Mediation must be held prior to either party initiating formal legal action.

Section 14. This Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, DeKalb County and the City of Stonecrest have executed this Agreement in three counterparts, each to be considered as an original by their authorized representative, on the day and date hereinabove written.

DEKALB COUNTY, GEORGIA

ATTEST:

MICHAEL L. THURMOND

Chief Executive Officer
DeKalb County, Georgia

Date: _____

BARBARA H. SANDERS-NORWOOD

Clerk of the Chief Executive Officer
and Board of Commissioners of
DeKalb County, Georgia

APPROVED AS TO SUBSTANCE:

APPROVED AS TO FORM:

WILLIAM “TED” RHINEHART

Deputy Chief Operating Officer of
Infrastructure, DeKalb County, Georgia

SHAHEEM M. WILLIAMS

Assistant County Attorney

CITY OF STONECREST, GEORGIA

ATTEST:

(SEAL)

JASON LARY

Mayor

Date: _____

BRENDA JAMES

City Clerk

APPROVED AS TO SUBSTANCE:

APPROVED AS TO FORM:

MICHAEL HARRIS

City Manager

WINSTON DENMARK

City Attorney

Short Title

PANOLA ROAD: SEGMENT 2 OPERATION IMPROVEMENTS FROM SR 212 (BROWNS MILL ROAD) TO FAIRINGTON ROAD

GDOT Project No.

0006879

Federal ID No.

CSSTP-0006-00(879)

Status

Programmed

Service Type

Roadway / Operations & Safety

Sponsor

DeKalb County

Jurisdiction

DeKalb County

Analysis Level

Exempt from Air Quality Analysis (40 CFR 93)

Existing Thru Lane

2

LCI

☐

Planned Thru Lane

2

Flex

☐

Network Year

TBD

Corridor Length

2.1 miles



Detailed Description and Justification

This segment of Panola Road is from Snapfinger Woods Drive to US 278 (Covington Highway). The proposed typical section will consist of a four 12-foot lanes, a flush center turn lane, 4-foot bike lanes, and curb and gutter with 5-foot sidewalks. For all segments along Panola Road, all crossroad intersections would be improved based on design year traffic data, including improvements to approach lane configurations and turn lane lengths. Roadway widening would generally be symmetrical from existing centerlines; however, asymmetrical widening would be performed where factors such as utility impacts, ROW restrictions, or geometric restrictions dictate. The proposed project would also straighten the alignment of Panola Road at the existing curve located between Salem Drive and Oaktree Trail/Old Panola Road. After construction of the proposed project, traffic signals would be adjusted with an optimized signal timing plan. The traffic signals along the corridor would be interconnected using fiber optic cables, and optimized timing plans would be developed for the morning, midday, afternoon, and weekend rush hour periods.

Phase Status & Funding Information		Status	FISCAL YEAR	TOTAL PHASE COST	BREAKDOWN OF TOTAL PHASE COST BY FUNDING SOURCE			
					FEDERAL	STATE	BONDS	LOCAL/PRIVATE
PE	Local Jurisdiction/Municipality Funds	AUTH	AUTH	\$482,000	\$0,000	\$0,000	\$0,000	\$482,000
PE-OV	STP - Statewide Flexible (GDOT)	AUTH	2011	\$50,000	\$40,000	\$10,000	\$0,000	\$0,000
ROW	Surface Transportation Block Grant (STBG) Program - Urban (>200K) (ARC)		2019	\$7,080,000	\$4,800,000	\$0,000	\$0,000	\$2,280,000
UTL	Local Jurisdiction/Municipality Funds		2022	\$4,100,000	\$0,000	\$0,000	\$0,000	\$4,100,000
CST	Surface Transportation Block Grant (STBG) Program - Urban (>200K) (ARC)		2022	\$19,414,278	\$4,865,184	\$0,000	\$0,000	\$14,549,094
				\$31,126,278	\$9,705,184	\$10,000	\$0,000	\$21,411,094

SCP: Scoping PE: Preliminary engineering / engineering / design / planning PE-OV: GDOT oversight services for engineering ROW: Right-of-way Acquisition
 UTL: Utility relocation CST: Construction / Implementation ALL: Total estimated cost, inclusive of all phases



For additional information about this project, please call (404) 463-3100 or email transportation@atlantaregional.com.





CITY COUNCIL AGENDA ITEM

SUBJECT: FEE SCHEDULE FOR PARKS AND RECREATION

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

Council Meeting: 5/13/2019

SUBMITTED BY: SEAN DE PALMA

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: APPROVAL BY MAYOR AND COUNCIL

City of Stonecrest
Parks and Recreation
Schedule Fees

Recreation/Community Center Rental								
			Individual		Tax Exempt Organization		Non Tax Exempt Organization	
		Length	Stonecrest Resident (DeKalb County Resident)	Non- Stonecrest- DeKalb Resident	Stonecrest Resident (DeKalb County Resident)	Non- Stonecrest- DeKalb Resident	Stonecrest Resident (DeKalb County Resident)	Non- Stonecrest- DeKalb Resident
Browns Mill Recreation Center								
Large Meeting Rooms		Hourly	30	45	30	45	60	120
Activity/ Classroom		Hourly	20	30	20	30	40	40
General Assembly Room		Hourly	50	75	50	75	100	200
Gymnasium		Hourly	80	120	60	90	160	320
Kitchen		Hourly	20	30	20	30	40	40
Entire Facility		4-Hour	650	925	600	925	1000	1500
Staff		Hourly	20	20	20	20	30	60
All community center rental packages includes: Standard set-up and break down, processing fee and applicable taxes. Deposit \$100. 30% Discount for recognized not-for-profit with a tax-exempt certificate, as defined under the Internal Revenue Code. 50% Surcharge for City recognized Holiday								
Athletic/Sports Field Rental								
			Individual		Tax Exempt Organization		Non Tax Exempt Organization	
		Length	Resident	Non-Resident	Resident	Non-Resident	Resident	Non-Resident
Non-Lighted Field		Hourly	40	60	30	45	80	120
Lighted Field		Hourly	60	120	40	80	120	180
Tennis Court		Hourly	10	15	10	15	80	120
Staff		Hourly	20	20	20	20	30	60
After Hours Staff		Hourly	30	30	30	30	40	80

City of Stonecrest
Parks and Recreation
Schedule Fees

Entire Facility(Lights included)	\$200 per field	Daily	13 fields (\$2,600)					
Tournament Rate								
4-Field Tournament Rate:								
Field Rental Fee		per day	\$1,800					
Field Preparation Charges		per day	\$300					
3-Field Tournament Rate:								
Field Rental Fee		per day	\$1,500					
Field Preparation Charges		per day	\$300					
<i>Pavilion & Outdoor Amenities</i>								
			Individual		Tax Exempt Organization		Non Tax Exempt Organization	
		Length	Resident	Non-Resident	Resident	Non-Resident	Resident	Non-Resident
Pavillion					150	\$200	240	280
Salem Park		Half Day/ Full Day	Half day-55 Full day-95	Half day-75 Full day-135				
Farrington Park		Half Day/ Full Day	Half day-55 Full day-95	Half day-75 Full day-135				
Gregory Moseley		Half Day/ Full Day	Half day-55 Full day-95	Half day-75 Full day-135				

City of Stonecrest
Parks and Recreation
Schedule Fees

Litter offenses	1st offenses	Warning letter						
	2nd offense	\$100 deposit						
	3rd offense	Forfeits litter deposit and Concession rights						
Park Weddings(Special Event)		4-Hour	100	150	100	150	200	400
Commemorative Bench Plaque			500	500	500	500	600	600
Parking Shuttle Service		Daily	350					
BMAC- Aquatic Center								
			Individual		Tax Exempt Organization		Non Tax Exempt Organization	
		Length	Resident	Non-Resident	Resident	Non-Resident	Resident	Non-Resident
Admissions Child (0-4)		Daily	\$2.00	\$3				
Admissions Youth (5-17)		Daily	\$3.00	\$4.00				
Admissions Adult (18+)		Daily	\$5.00	\$8.00				
Admissions Seniors(55+)		Daily	\$4.00	\$5.00				
Season Pass Child (0-4)		Daily	\$27.00	\$30.00				
Season Pass Youth (5-17)		Daily	\$27.00	\$30.00				
Season Pass (18+)		Daily	\$41.00	\$61.50				
Senior Pass(55 and over)		Daily	\$27.00	\$30.00				
Season Pass Family		Daily	\$53.00	\$79.50				
Entire Facility Rental package								

City of Stonecrest
Parks and Recreation
Schedule Fees

Rental			\$500.00					
Deposit			\$100.00					
Lifeguard fee(Required to have 17 regardless of party)	Hourly		\$680.00					
Total Rental Fee:			\$1,280					
Fetivals/Specials Events								
Space rental	5 hrs-1/2 day	Hourly						
Staff cost	Includes Maintenance and Park Ranger staff	Hourly						
Services/supplies								
Equipment								
Canopy								
Bleachers								
Permits								
Commerical Video/ Film Permits								
Half-day			470					
Full-day			930					
Half-day weekend			1,050					
Full-day weekend			1,850					
Per Hour			120					
Vendor Permit								
Special Facility/ event% of gross			25-35%					
Certified not-for-Profit rate			10-15%					
Booth space- For profit organizations			\$3.00	per linear foot				

City of Stonecrest
Parks and Recreation
Schedule Fees

Booth space-Non profit organization			\$1.00	per linear foot				
Party Package								
Entire Facility								