

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

ORDINANCE NO. TMOD 21-002

1 **AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF STONECREST,**
2 **GEORGIA, BY AMENDING ARTICLE 4 (USE REGULATIONS) AND 9**
3 **(DEFINITIONS), WITHIN CHAPTER 27 (ZONING ORDINANCE); TO PROVIDE**
4 **SEVERABILITY; TO PROVIDE A PENALTY; TO PROVIDE FOR REPEAL OF**
5 **CONFLICTING ORDINANCES AND RESOLUTIONS; TO PROVIDE AN ADOPTION**
6 **AND EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.**

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

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

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

13 **WHEREAS**, the Mayor and Council desire to amend Article 4 (Use Regulations) and 9
14 (Definitions) of Chapter 27 (Zoning Ordinance) of the City’s Code related to Child and Personal
15 Care Home definitions and use regulations; and

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

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

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22 **WHEREAS**, a public hearing pursuant to the provisions of the Zoning Procedures Act has
23 been properly held prior to the adoption of this Ordinance; and

24 **WHEREAS**, the health, safety, morals and general welfare of the citizens of the City will be
25 positively impacted by the adoption of this Ordinance.

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

28 **Section 1.** The Code of Ordinances of the City of Stonecrest, Georgia is hereby amended by
29 amending the following sections of Chapter 27 (Zoning): Section 4.1.3 (Table of Uses), Section
30 4.2.31 (Home Occupations and Private Education Uses), Article 9 (Definitions), and Section 4.2.41
31 (Personal Care Homes and Child Caring Institutions), and inserting the provisions set forth in Exhibit
32 A attached hereto and made a part by reference.

33 **Section 2.** The preamble of this Ordinance shall be considered to be and is hereby
34 incorporated by reference as if fully set out herein.

35 **Section 3.** (a) It is hereby declared to be the intention of the Mayor and Council that all
36 sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their
37 enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

38 (b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent
39 allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is
40 severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is
41 hereby further declared to be the intention of the Mayor and Council that, to the greatest extent
42 allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually
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44 dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

45 (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for
46 any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid
47 judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and

48 Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent
49 allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining
50 phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent
51 allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance
52 shall remain valid, constitutional, enforceable, and of full force and effect.

53 **Section 4.** All ordinances and parts of ordinances in conflict herewith are hereby expressly
54 repealed.

55 **Section 5.** The Ordinance shall be codified in a manner consistent with the laws of the
56 State of Georgia and the City of Stonecrest.

Section 6. It is the intention of the governing body, and it is hereby ordained that the
provisions of this Ordinance shall become and be made part of the Code of Ordinances, City of
Stonecrest, Georgia.

ORDAINED this ____ day of _____, 2021.

CITY OF STONECREST, GEORGIA

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George Turner, Mayor Pro Tempore

ATTEST:

Patricia Wheeler, City Clerk

APPROVED AS TO FORM:

City Attorney

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EXHIBIT A
(SEE ATTACHED)

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Excerpt from Table 4.1 Use Table

Use	KEY: P - Permitted use Pa - Permitted as an accessory use															SA - Special administrative permit from Community Development Director SP - Special land use permit (SLUP)					See Section 4.2				
	RE	RLG	R-100	R-85	R-75	R-60	RSM	MR-1	MR-2	HR-1,2,3	MHP	RNC	OI	OIT	NS	C-1	C-2	OD	M	M-2		MU-1	MU-2	MU-3	MU-4.5
Personal care home, community , 7 or more							P	P	P	P			P	P	P	P	P				P	P	P	P	✓
Personal care home, group, upto 6 or less	S	S	S	S	S	S	S	S	P	P	P	P	P	P	P	P					P	P	P	P	✓
Child caring home, up to 5 or less	S	S	S	S	S	S	S	P	P	P	P	P	P	P	P	P					P	P	P	P	✓
Child caring facility, 6 or more								P	P	P			P	P	P	P	P	P			P	P	P	P	✓
Child day care center							P	P				P	P	P	P	P					P	P	P	P	

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Sec. 4.2.31. - Home occupations and private educational uses.

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The following provisions apply to home occupations:

- A. A home occupation where no customer contact occurs shall be considered a Type I home occupation and may be conducted with administrative approval by the director of planning and zoning.
 - 1. The owner/operator of the business must reside on the premise.
 - 2. Up to two (2) full-time residents of the premises are allowed to conduct separate home occupations in the same dwelling. In reviewing such a request, the local government may consider the reason, potential residential impact, parking needs, hours of operation and other relevant factors.

- B. All home occupations other than Type I home occupations shall be considered a Type II home occupation and shall require a special land use permit (SLUP). Additional conditions may be placed on the approval of a Type II home occupation in order to ensure the home occupation will not be a detriment to the character of the residential neighborhood.
 - 1. Customer contact is allowed for Type II home occupations.
 - 2. Up to two (2) full-time residents of the premises are allowed to conduct separate home occupations in the same dwelling. In reviewing such a request, the local government may consider the reason, potential residential impact, parking needs, hours of operation and other relevant factors.

- C. All home occupations shall meet the following standards:
 - 1. There shall be no exterior evidence of the home occupation.
 - 2. No use shall create noise, dust, vibration, odor, smoke, glare or electrical interference that would be detectable beyond the dwelling unit.
 - 3. The use shall be conducted entirely within the dwelling unit, and only persons living in the dwelling unit shall be employed at the location of the home occupation.
 - 4. No more than twenty-five (25) percent of the dwelling unit and/or five hundred (500)square feet, whichever is less, may be used for the operation of the home occupation.
 - 5. No more than one (1) business vehicle per home occupation is allowed.
 - 6. No home occupation shall be operated so as to create or cause a nuisance.
 - 7. Home occupation shall not include the use of a dwelling unit for the purpose of operating any automobile repair establishment, or car wash.
 - 8. Occupations that are mobile or dispatch-only may be allowed, provided that any business vehicle used for the home occupation complies with section 6.1.3, and is limited to one (1) business vehicle per occupation.

- D. Private educational services shall comply with home occupation standards and no more than three (3) students shall be served at a time. Family members residing in the home are not counted towards the three (3) students allowed.

- E. Child Care Homes and Personal Care Homes are considered Home Occupations and must adhere to these provisions in addition to Section 4.2.41.

Sec. 4.2.41. - Personal care homes and child caring institutions.

A. *Personal care homes, general requirements.*

1. If owned by a corporation, partnership, Limited Liability Company or any entity other than a natural person, the administrator identified in the state license application must reside in the personal care home. If owned by an individual, the individual owner must reside in the group personal care home.
- ~~1.2.~~ Each personal care home must obtain a city license as well as all license(s) and/or permit(s) required by the State of Georgia before beginning ~~in order to~~ operate. Each personal care home licensed and/or permitted by the State of Georgia must display its state-issued and city-issued license(s) and/or permit(s) in plain view, visible from the front doorway of the facility.
- ~~2.3.~~ No personal care home may display any exterior signage that violates the sign ordinance in chapter 21 of the Code or the sign provisions in the zoning regulations for the underlying zoning district where the personal care home is located.
4. Personal care homes may apply for an FHA Accommodation Variance as provided for in section 7.5.9 of this chapter.
- ~~3.5.~~ No city permit for the operation of the personal care home shall be transferable.

B. *Personal care home, group (up to six (6) persons).*

1. Two (2) copies of complete architectural plans for the subject group personal care home, signed or sealed by a registered architect, shall be submitted to the director of planning prior to issuance of a building permit or business license.
2. Each group personal care home must provide at least four (4) parking spaces within a driveway, garage or carport and must comply with any applicable requirements in article 6.
3. The home must be at least 1800 sq. ft in size.
4. ~~3.~~ In order to prevent institutionalizing residential neighborhoods, no group personal care home located in the RE, R-LG, R-100, R-85, R-75, R-50, R-SM, or MR-1 a residential zoning district may be operated within one thousand (1,000) feet of any other group personal care home. The one-thousand-foot distance requirement is measured by a straight line which is the shortest distance (i.e., "as the crow flies") between the property lines of the two (2) tracts of land on which the group personal care homes are located.

C. *Personal care home, ~~community~~ (seven (7) or more persons).*

1. Two (2) copies of complete architectural plans for the subject community personal care home, signed or sealed by a registered architect, shall be submitted to the director of planning prior to issuance of a building permit or business license.
2. Each community personal care home must provide at least one-half (0.50) parking spaces for each employee and resident and must comply with any applicable requirements in article 6.

D. *Child Care ~~home~~ Home, and Child Care ~~facility~~ Facility general requirements.*

1. If owned by a corporation, partnership, Limited Liability Company or any entity other than a natural person, the administrator identified in the state license application must reside in the child care home, facility. If owned by an individual, the individual owner must reside in the child care home, or child care facility.
2. No child ~~day~~ care home, or child care facility shall be located within ~~1,000~~ 1,500 feet of another child care home or child care facility. The one-thousand-five-hundred-foot distance requirement is measured by a straight line which is the shortest distance (i.e., "as the crow flies") between the property lines of the two (2) tracts of land on which the child care homes, or child care facilities are located.
3. Each child caring home, and child care facility must obtain all license(s) and/or permit(s) required by the State of Georgia in order to operate. Each child caring institution must display its state-issued and city-issued license(s) and/or permit(s) in plain view, visible from the front doorway of the facility.
4. ~~Child care~~ Care homes and Child Care facilities are not permitted in Multi-family dwellings.
5. No child caring home, facility may display any exterior signage that violates the sign ordinance in chapter 21 of the Code or the sign provisions in the zoning regulations for the underlying zoning district where the personal care home is located.
- 4.6. Each child care home, facility shall meet the minimum state requirements for playground size, location, and fencing. ~~with 3 or more children over the age of 3 under the age of 15 must provide a fenced outdoor play area the equivalent of 50 sq. ft per child in the rear of the property.~~

E. *Child Care Homes, ~~group~~ (up to five (5) children).*

1. Each group child care home must provide at least four (4) parking spaces within a driveway, garage or carport, and must comply with any applicable requirements in article 6.

F. *Child Care Facility (six (6) or more children).*

1. Two (2) copies of the complete architectural plans of the subject community child caring institution, signed and sealed by a registered architect, shall be submitted to the director of planning prior to issuance of a building permit or business license.
2. Each community child caring institution must provide at least one-half (0.50) parking spaces for each employee and resident and must comply with any applicable requirements in article 6.

Article 9: Definitions

Child Care Facility: A building(s) in which housing, meals, and twenty-four-hour continuous watchful oversight of six (6) or more children under the age of eighteen (18) are provided and which facility is licensed or permitted as a child caring institution by the State of Georgia. The term "child caring institution" shall not include a "child day care center or child care facility."

Child Care Home: A building(s) in which housing, meals, and twenty-four-hour continuous watchful oversight for up to five (5) children under the age of eighteen (18) are provided. The term "child caring institution" shall not include a "child day care center or facility."

Child Day Care Center: An establishment operated by any person with or without compensation providing for the care, supervision, and protection of seven (7) or more children who are under the age of eighteen (18) years for less than twenty-four (24) hours per day, without transfer of legal custody. The term "child caring institution" shall not include a "child day care center or child care facility."

Personal care home, group: A personal care home that offers care to up to six (6) persons.

Personal Care Home: A building(s) in which housing, meals, personal assistance services, and twenty-four-hour continuous watchful oversight to seven (7) or more persons are provided and which facility is licensed or permitted as a personal care home by the State of Georgia. The term "personal care home" shall not include a "child care institution," "transitional housing," a "rehabilitation housing facility," a "rooming house," or a "boarding house." "Personal care home" includes a "community living arrangement," which is an establishment licensed by the State of Georgia and providing a residence for adults receiving care for mental health, development disabilities, and/or addictive diseases