

STATE OF GEORGIA  
COUNTY OF DEKALB  
CITY OF STONECREST

ORDINANCE NO. TMOD 21-003

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

9 WHEREAS, the governing body of the City of Stonecrest, Georgia (“City”) is the Mayor  
10 and Council thereof; and

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

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

15 WHEREAS, the Mayor and Council desire to amend Division 2 (Supplemental Use  
16 Regulations) within Article 4 (Use Regulations) of Chapter 27 (Zoning Ordinance) of the City’s  
17 Code; and

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

20           **WHEREAS**, national studies show that certain land uses—including alcohol outlets,  
21   automobile gas stations, check cashing establishments, and convenience stores—often  
22   negatively impact the health, safety, welfare, economic development, and social vitality of  
23   communities and neighborhoods; and

24           **WHEREAS**, local studies show that the concentration of certain land uses in DeKalb  
25   County and the City of Stonecrest—including alcohol outlets, gas service stations, and fast-food  
26   restaurants—are associated with increased crime and lower median household income; and

27           **WHEREAS**, the courts specifically recognize that a concentration of the same or similar  
28   business in close proximity increases the probability of business failure, which leads to  
29   abandoned property and diminished aesthetic and commercial appeal; and

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

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

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

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

38           **Section 1.** The Code of Ordinances of the City of Stonecrest, Georgia is hereby amended  
39   by amending Division 2 (Supplemental Use Regulations) within Article 4 (Use Regulations) of  
40   Chapter 27 (Zoning Ordinance) as it relates to alcohol outlets and fuel pumps, and inserting the  
41   provisions set forth in Exhibit A attached hereto and made a part by reference.

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

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

47 (b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent  
48 allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is  
49 severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is  
50 hereby further declared to be the intention of the Mayor and Council that, to the greatest extent  
51 allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually  
52 dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

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

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

**Section 5.** The Ordinance shall be codified in a manner consistent with the laws of the 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

### George Turner, Mayor Pro Tempore

**ATTEST:**

**Patricia Wheeler, City Clerk**

**APPROVED AS TO FORM:**

City Attorney

**EXHIBIT A**  
**(SEE ATTACHED)**

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**Sec. 4.2.8. - Alcohol outlets, retail, package liquor store.**

- A. Package stores, ~~unless part of a mixed used development,~~ shall not be located:
1. Within 1,000 feet of an existing package store or alcohol outlet;
  2. Within 600 feet of any residence, church, school, school building or grounds, educational facility, college campus, or sexually oriented business; or
  3. Within 600 feet of a substance abuse treatment center owned, operated or approved by the state or any county or municipal government.
- B. Alcohol outlets shall not be located:
1. Within ~~300-600~~ feet of any school building, school grounds, educational facility, college campus, or sexually oriented business; or
  2. Within 600 feet of a substance abuse treatment center owned, operated, or approved by the state or any county or municipal government.
- C. For the purpose of this section, distance shall be measured according to chapter 4.
- D. For alcohol sales as an accessory use to retail, the area devoted to the sale and storage of alcohol shall not exceed twenty (20%) percent of gross floor area.
- E. The sale or distribution of individual cups and individual servings of ice at package stores is prohibited.
- F. Alcohol outlets accessory to convenience stores with gas pumps ~~do not~~ require a special land use permit ~~if the convenience store and gas pumps meet the criteria of section 4.2.28D.~~

**Sec. 4.2.28. - Fuel pumps, accessory.**

- A. Upon the minor redevelopment of existing structures or buildings, as defined in section 28-8.1.16, that also requires a land disturbance permit or building permit, the director may require additional improvements to landscaping, signage, parking lots, sidewalks, or building facades. Any minor redevelopment of existing structures, buildings, and physical appurtenances is permitted by right if such changes result in greater conformity with the specifications of this section.
- B. Gas station and convenience store design shall comply with the design standards and transitional buffer requirements set forth in article 5 of this chapter.
- C. The following standards apply to all gas pumps:
- (1) ~~The primary building (i.e., convenience store or automobile service station) shall be exempt from primary building setbacks if located in activity centers. All associated light fixtures shall be directed away from surrounding residential neighborhoods.~~
  - (2) Canopies covering gasoline dispensers shall be set back not less than 15 feet from all street rights-of-way.
  - (3) Canopy height shall not exceed the greater of 20 feet or the height of the principal building.

- (4) Canopies and their columns shall be complementary to the overall color scheme and building materials scheme of the building facade to which the canopy is necessary.
- (5) Canopy lighting shall not extend beyond the area immediately beneath the canopy and all fixtures shall be recessed, including any fixture or lens. Lighting shall project inward and downward, shall not have any spillover to adjacent properties, and shall cut off no later than 30 minutes after closure of the facility.
- (6) Automobile service stations with gas sales shall have a capacity to store one car per bay (car area in front of a pump), so as not to interfere with driveway ingress and egress traffic flow.
- (7) A minimum of 30 feet is required between a property line and the nearest gasoline pump.
- (8) Owner and operator are responsible for daily litter clean-up to ensure that property remains free of litter, trash, and debris.
- (9) When a separate retail or restaurant use is located on the same property as fuel pumps, there shall be separate and distinct parking spaces for each use.
- (10) The use of light emitting diodes, neon lights, and illuminated panels placed around the windows or on the outside of the building is not prohibited, but must not be visible from or face adjacent residential uses.

D. Location criteria. Fuel pumps associated with convenience stores, gas stations, and service stations ~~require a special land use permit in activity centers. In all other character areas a special land use permit is required unless that facility can~~ must meet at least three of the following criteria:

1. Facility is located within ~~400-100~~ feet of an intersection of a major arterial street and a major or minor arterial street, or located within ~~1,000-500~~ feet of ~~an intersection within an interstate highway~~ intersection with an arterial street as designated on the Functional Classification Map in the City Comprehensive Plan.
2. Facility is accessible via direct ~~and~~ or secondary access ~~to two roads, either through a secondary street or by interparcel or other shared access.~~
3. Facility ~~is a new building of~~ includes at least 5,000 square feet of retail space. ~~or facility is part of a major redevelopment, as defined in section 27-8.1.16.~~
4. No more than two facilities may be located at any given intersection. Facility includes ~~at least two bathrooms capable of serving at least three persons at a time, open to the public, and compliant with the Americans with Disabilities Act.~~
5. Except for facilities located at the same roadway intersection, facilities cannot be located closer than 1,500 feet apart.

E. Distance shall be measured from the right-of-way of the exit or entrance ramp, or street corner (middle of the radius), along the intersecting street right-of-way, to the nearest property line.

F. Facility includes must include at least two bathrooms, each capable of serving at least three persons at a time, open to the public, and compliant with the Americans with Disabilities

Act.

~~F~~G. If a reverse frontage design is proposed, the primary building shall be located close to the street to define street edge. Pump islands shall not be located between the building and the street, but shall be placed behind or to the side of the primary building. The facade of the primary building located closest to the street shall include architectural features and shall have an active entrance either on the side or rear, with clear unobstructed pedestrian access from the public sidewalk. The street facade shall have at least 25 percent fenestration or faux fenestration.

~~G~~H. Service areas, storage areas, and trash enclosures shall be oriented away from public view and screened from adjacent properties.

~~H~~I. Facilities must provide a two-foot-high masonry wall with landscaping and/or an evergreen hedge to help screen the pumps from view from a public right-of-way.