

STATE OF GEORGIA

DEKALB COUNTY

CITY OF STONECREST

ORDINANCE NO. 2023-06-02

AN ORDINANCE TO AMEND VARIOUS ARTICLES WITHIN CHAPTER 27 (ZONING ORDINANCE) OF THE CITY OF STONECREST, GEORGIA TO APPLY AMENDMENTS PASSED BY THE GEORGIA GENERAL ASSEMBLY TO THE GEORGIA ZONING PROCEDURES LAW; TO PROVIDE SEVERABILITY; TO PROVIDE A PENALTY; TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES; TO PROVIDE FOR AN ADOPTION AND EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

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

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

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

WHEREAS, the Mayor and City Council desire to amend various articles within Chapter 27 (Zoning Ordinance) based on amendments passed by the Georgia General Assembly to the Georgia Zoning Procedures Law; and

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

WHEREAS, the Director of Planning and Zoning recommends approval based on the City Staff Report; and

WHEREAS, a public hearing and recommendation pursuant to the provisions of the Zoning Procedures Law has been provided by the Planning Commission; and

WHEREAS, a public hearing pursuant to the provisions of the Zoning Procedures Law has been properly held by the City Council prior to the adoption of this Ordinance; and

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

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

Section 1. The Code of Ordinances of the City of Stonecrest, Georgia is hereby amended within Chapter 27 (Zoning Ordinance) by adopting the amendments set forth in Exhibit A attached hereto and made a part hereof by reference.

Section 2. That text added to current law appears in **red bold and underline** Text removed from current law appears as **red, bold and strikethrough**.

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

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

(b) It is hereby declared to be the intention of the Mayor and 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 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.

(c) 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 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 section 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.

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

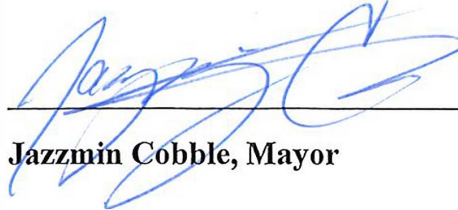
Section 6. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section 7. The Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City of Stonecrest.

Section 8. 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 28th day of June, 2023.

CITY OF STONECREST, GEORGIA



Jazzmin Cobble, Mayor


ATTEST:



City Clerk



APPROVED AS TO FORM:



City Attorney

EXHIBIT A

Georgia House Bill 1405: Revisions to Zoning Procedures Law
Summary Table

	SECTION	CHANGE	INTERPRETATIONS TO BE DETERMINED LOCALLY WITH COUNSEL	
DEFINITIONS	Sec. 36-66-3(1.1)	Defines "quasi-judicial officers, boards, or agencies" as those entities rendering decisions on variances, special administrative permits, special exceptions, conditional use permits, or other zoning decisions.	Need to determine how to handle the difference between a conditional use and a special use. No definition provided for each of the application types in the list of quasi-judicial decisions in the amendment.	
	Sec. 36-66-3(4)	Defines "zoning decision" as a rezoning, text amendment, special use, and concurrent variances Incorporates "repeal" of decisions and conditions in the definition of "zoning decision" Incorporates variances concurrent with special uses of property and rezonings in the definition of "zoning decision"	Consider whether administrative variances and procedures for minor modifications can be reviewed at the administrative level without a public hearing since alterations of conditions are considered "zoning decisions."	
REQUIRED HEARINGS	Sec. 36-66-4(a)	Only one hearing is required for text amendments, rezonings, special uses, and concurrent variances. Only one hearing is required for any combination thereof.		
	Sec. 36-66-4(g)	One hearing per proposed action required for all quasi-judicial decisions.	Consider whether this requires the opening and closing of a separate hearing for each variance request. Compare the language to the zoning decision language in (a) of that section for context.	
	Sec. 36-66-4(h)(1), (2), and (3):		Text amendments that involve allowing multi-family (MF) uses in a single-family residential (SFR) district; abolition of SFR classifications in jurisdictions; or when properties are granted ability to deviate from existing zoning requirements in single-family residential zoning districts - does not apply to SFR uses being changed to MFR uses for owner-initiated applications.	No definition of MF in ZPL. Determine if this section should apply to planned unit development districts. Note that the requirement specifies "uses," not zoning. The exemption specifies "owner-initiated applications only."
			Decisions to be adopted at two regular meetings that are to be a minimum of 21 days apart.	
			Prior to two-read adoption, two additional public hearings required: Hearings shall be held 3-9 months prior to date of final adoption At least one hearing shall be held between 5 p.m. and 8 p.m.	

Georgia House Bill 1405: Revisions to Zoning Procedures Law

Summary Table

	SECTION	CHANGE	INTERPRETATIONS TO BE DETERMINED LOCALLY WITH COUNSEL
NOTICE	Sec. 36-66-4(g)	Quasi-judicial decisions: 30 days notice	
		Quasi-judicial decisions: Requires written notification to property owner and newspaper ad	Note the added requirement to send written notice to the property owner.
	Sec. 36-66-4(h)(1), (2), and (3)	Applies to same scenarios as above - Text amendments that involve allowing multi-family (MF) uses in a single-family residential (SFR) district; abolition of SFR classifications in jurisdictions; or when properties are granted ability to deviate from existing zoning requirements in single-family residential zoning districts – does not apply to SFR uses being changed to MFR uses for owner-initiated applications.	No definition of MF in ZPL.
			Determine if this section should apply to planned unit development districts.
			Note that the requirement specifies "uses," not zoning. The exemption specifies "owner-initiated applications only."
			Determine if "premises" is referring also to situations where properties impacted by text amendments have to be posted under the cited scenarios.
	Post notice on each affected "premises." If there are more than 500 parcels, posting is only required every 500 feet.		
	Newspaper ad Minimum of 15 days/not more than 45 days from hearing (unchanged) Prominent notice of purpose (provide full description of intent of change) 9 column inches Shall not located in classified section State that a copy of proposed ordinance is on file (to be furnished upon request at no cost).		

Georgia House Bill 1405: Revisions to Zoning Procedures Law
Summary Table

	SECTION	CHANGE	INTERPRETATIONS TO BE DETERMINED LOCALLY WITH COUNSEL
WRITTEN POLICY	Sec. 36-66-5	Policies and procedures outlined in ZPL shall be incorporated into ordinance (a portion is existing but requirements specific to quasi-judicial decisions has been added).	
		Incorporate requirements for designating hearing procedures, criteria for review, and providing printed copies of procedures at quasi-judicial hearings.	
DELEGATION OF DECISION MAKING POWER TO OFFICER, BOARD, OR AGENCY	Sec. 36-66-4(g)	Specific changes are noted elsewhere in chart - this line item is added specifically to contemplate whether the requirements are different in the authority is not delegated.	Identify whether local interpretation is that requirements related to quasi-judicial decisions are not required when decisions are made by governing body (i.e.: the authority is not delegated to a subordinate board).

Georgia House Bill 1405: Revisions to Zoning Procedures Law

Summary Table

	SECTION	CHANG E	INTERPRETATIONS TO BE DETERMINED LOCALLY WITH COUNSEL
APPEALS	Sec. 36-66-5.1	Zoning decisions – subject to de novo review that reviews the record and any new evidence.	Note implications for conditional use permits and special uses based on how prior sections are interpreted.
		Quasi-judicial decisions – subject to appellate review – reviews only the record.	
		Government to designate (by ordinance or resolution) Officer of quasi-judicial board to receive service (at office during regular hours) Elected official or designee for quasi-judicial appeals	
		Appeal stays all actions	
EFFECTIVE DATE	Sec. 36-66-5	No text amendments adopted after July 1, 2022 are procedurally correct unless adoption procedures comply with the aforementioned changes.	
	Sec. 36-66-2(a)	No zoning or quasi-judicial decision prior to July 1, 2023 is rendered invalid or void because of failure to update ordinances.	