



## CITY OF STONECREST, GEORGIA

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*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*

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### CITY COUNCIL WORK SESSION

February 11, 2019

6:00 p.m.

3120 Stonecrest Blvd. Suite 190

Stonecrest, Georgia

**I. CALL TO ORDER:** Mayor Jason Lary

**II. AGENDA ITEMS:**

1. Discussion on Legislative Items - (G. Turner, R. Turner)
  - a) Hotel/Motel Tax
  - b) Reapportionment of Border Properties
2. Individual Council Requests for Legal Services – (Mayor)
3. Ethics Amendments
4. Budget Amendment to add LMIG Funds
5. Cell Tower Ordinance – (Adoma, G. Turner)

**III. ADJOURNMENT:**



**CITY COUNCIL AGENDA ITEM**

**SUBJECT: Discussion on Legislative Items**

- |   |                                     |  |
|---|-------------------------------------|--|
| <input type="checkbox"/> ORDINANCE                  | <input type="checkbox"/> POLICY     | <input type="checkbox"/> STATUS REPORT |
| <input checked="" type="checkbox"/> DISCUSSION ONLY | <input type="checkbox"/> RESOLUTION | <input type="checkbox"/> OTHER         |

**Council Meeting: 02/11/2019**

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**SUBMITTED BY: Council Members George Turner and Rob Turner**

**PURPOSE:**

**HISTORY:**

**FACTS AND ISSUES:**

**OPTIONS:**

**RECOMMENDED ACTION:**

# FINCHER DENMARK LLC

Proposal to Provide

Government Affairs Services

February 7, 2019

# GEORGIA GENERAL ASSEMBLY

## WHERE ARE THEY?

- Day 9 of a 40 day session
- Major issues at the General Assembly:
  - Medicare waiver and expansion
  - Budget
  - Voting machines and updated laws
- Fincher Denmark can provide guidance to help local legislation navigate through the larger issues

## CITY OF STONECREST:

### WHY CONSIDER FINCHER DENMARK?

- No conflicts of interest
- “One voice” to communicate all issues
- Immediate start-up – Fincher Denmark knows:
  - The issues
  - The community
  - Local officials
  - Political leaders and issues
- Lobbying can be a part of existing duties – no need for time consuming selection process
- Capitol Hill access
- Lawyers are lobbyists and have more flexibility

## FINCHER DENMARK

### WORKING FOR THE STONECREST AGENDA

Fincher Denmark would meet with Mayor and Council and assist with the development of a strategic legislative plan. We would also periodically report back to the governing authority the status of our efforts

Fincher Denmark would:

- Seek to coordinate with the DeKalb Caucus, local representatives/senators and other DeKalb County cities. We would also arrange face-to-face meetings with Capitol Hill leaders as needed
- Review and discuss legislative plans with the Georgia Municipal Association and other organizations with legislative agenda matters that could impact the City of Stonecrest

Potential initiatives for the 2019 session and beyond:

- Hotel/Motel Tax Strategy: Revenue Enhancement
- Changes to City Charter



**CITY COUNCIL AGENDA ITEM**

**SUBJECT:** Individual Council Requests for Legal Services

- |  |                                     |   |
|--|-------------------------------------|---|
| <input type="checkbox"/> ORDINANCE       | <input type="checkbox"/> POLICY     | <input type="checkbox"/> STATUS REPORT    |
| <input type="checkbox"/> DISCUSSION ONLY | <input type="checkbox"/> RESOLUTION | <input checked="" type="checkbox"/> OTHER |

**Work Session:** 02/11/2019

**Council Meeting:** 02/11/2019

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**SUBMITTED BY:** Mayor Jason Lary

**PURPOSE:**

**HISTORY:**

**FACTS AND ISSUES:**

**OPTIONS:**

**RECOMMENDED ACTION:**



**CITY COUNCIL AGENDA ITEM**

**SUBJECT: Ethics Amendments**

- ORDINANCE                       POLICY                                       STATUS REPORT  
 DISCUSSION ONLY               RESOLUTION                               OTHER

**Council Meeting: 02/11/2019**

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**SUBMITTED BY:**

**PURPOSE:**

**HISTORY:**

**FACTS AND ISSUES:**

**OPTIONS:**

**RECOMMENDED ACTION:**



STATE OF GEORGIA  
DEKALB COUNTY  
CITY OF STONECREST

ORDINANCE 2019-\_\_\_\_\_

1     **AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA, AMENDING AND**  
2     **READOPTING ARTICLE X, CODE OF ETHICS, IN CHAPTER 2, ADMINISTRATION,**  
3     **OF THE CITY CODE.**

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

9             **WHEREAS,** on October 5, 2018, the Mayor and City Council adopted by Ordinance  
10    2017-10-05 as a part of the City of Stonecrest City Code, as Article X, Code of Ethics, in  
11    Chapter 2, Administration.

12            **WHEREAS,** the Mayor and City Council desire to amend and readopt as a part of the  
13    City of Stonecrest City Code, as Article X, Code of Ethics, in Chapter 2, Administration, as  
14    provided herein.

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

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

20    “ARTICLE X. - CODE OF ETHICS  
21

22    **Sec. 2-375. - Declaration of policy.**

23    (a) It is the policy of the City that the proper operation of democratic government requires that  
24    public officials and employees be independent, impartial and responsible to the people; that  
25    governmental decisions and policy be made in proper channels of the governmental  
26    structure; that public office not be used for personal gain; and that the public have

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27 confidence in the integrity of its government. In recognition of these goals, a code of ethics  
28 for all city officials and employees is adopted.

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

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

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

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

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

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

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

41 **Sec. 2-377. - Definitions.**

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

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

46 (b) *City official and/or official*, unless otherwise expressly defined, means the mayor, the  
47 members of the city council, candidates for the offices of the mayor and city council after  
48 legal notice of candidacy and qualification as such candidate, the municipal court judges  
49 (including substitute judges), the city manager, any assistant city managers, the city clerk,

50 any deputy city clerks, whether such person is salaried, hired or elected, and all other  
51 persons holding positions designated by the city charter, as it may be amended from time to  
52 time. City officials, unless otherwise expressly defined, includes individuals appointed by  
53 the mayor, city council, or both, to all city boards, commissions, authorities and other  
54 similar bodies, unless such individuals or individual members of city boards, commissions,  
55 authorities and other similar bodies are specifically exempted from this Article by law, this  
56 ordinance and/or the city council.

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

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

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

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

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

68 (h) *Exempt city boards, commissions, authorities and similar bodies* shall mean all boards,  
69 commissions, authorities and similar bodies of the city other than the Board of Zoning  
70 Appeals, Design Review Board, Historic Preservation Board, Planning Commission,  
71 Construction Appeals Board, Alcohol Licensing and Appeals Board, Stonecrest Convention  
72 and Visitors Bureau and any authority created by either the Georgia General Assembly or by

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73 the City by resolution or ordinance pursuant to Chapter 61 or Chapter 62 of Title 36 of the  
74 Official Code of Georgia Annotated. The members of exempt city boards, commissions,  
75 authorities and similar bodies are exempt city officials or officials unless such member is  
76 either an elected official of the City or is also a member of another city board, commission,  
77 authority or similar body not specifically exempted by this ordinance or by law.

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

80 (i) *Interest*:

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

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

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

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

93 b. Funds received by the person from the other person or entity either during the  
94 previous twelve (12) months equaled or exceeded five thousand dollars (\$5,000.00) in

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- 95 salary, bonuses, commissions or professional fees, or ten (10) percent of the  
96 recipient's gross income during that period, whichever is less; or
- 97 c. The person serves as a corporate officer or member of the board of directors or other  
98 governing board of the for-profit entity other than a corporate entity owned or created  
99 by the city council; or
- 100 d. The person is a creditor, debtor or guarantor of the other person or entity in an  
101 amount of five thousand dollars (\$5,000.00) or more.
- 102 (4) *Substantial interest in real property* means an equitable or legal ownership interest in  
103 real property with a fair market value of five thousand dollars (\$5,000.00) or more.
- 104 (j) *Ethics complaint* means a written document alleging a violation of this Article by a city  
105 official or employee. All ethics complaints filed with the city shall contain the following:
- 106 (1) A brief statement specifically identifying the name and title of the city official or  
107 employee against whom the complaint is filed. An ethics complaint may not allege  
108 violations and/or seek action against more than one city official or employee;
- 109 (2) A numbered list separately identifying each improper act which the city official or  
110 employee is alleged to have committed, including 1) the date of any such alleged  
111 offense(s); 2) the specific section(s) of this Article that each act is alleged to be in  
112 violation of; and 3) the factual basis for each alleged violation;
- 113 (3) A sworn and notarized statement by the complainant attesting that all information in the  
114 complaint is true to the complainant's information and knowledge;
- 115 (4) Email address, phone number and mailing address where the complainant may be  
116 contacted; and
- 117 (5) The complainant's residential address within the city limits.

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- 118 (k) *Reprimand* means an official reproof, reprehension, or rebuke of a wrong. A reprimand shall  
119 be effectuated by resolution of the mayor and council.
- 120 (l) *Respondent* means a city official or employee charged with a violation of this Article.
- 121 **Sec. 2-378. - Standards of conduct.**
- 122 (a) No city official or employee shall use such position to secure special privileges or  
123 exemptions for such person or others, or to secure confidential information for any purpose  
124 other than official responsibilities.
- 125 (b) No city official or employee, in any matter before the body in which he/she has a substantial  
126 interest, shall fail to disclose for the common good for the record such interest prior to any  
127 discussion or vote.
- 128 (c) No city official or employee shall act as an agent or attorney for another in any matter before  
129 the city council or any city body.
- 130 (d) No city official or employee shall directly or indirectly receive or agree to receive any  
131 compensation, gift, reward or gratuity in any matter or proceeding connected with, or related  
132 to, the duties of his/her office except as may be provided by law.
- 133 (e) No city official or employee shall enter into any contract with the city except as specifically  
134 authorized by state statutes. Any city official or employee who has a proprietary interest in  
135 an agency doing business with the city shall make known that interest in writing to the city  
136 council and the city clerk.
- 137 (f) All public funds shall be used for the general welfare of the people and not for personal  
138 economic gain.
- 139 (g) Public property shall be disposed of in accordance with Georgia law.

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- 140 (h) No city official or employee shall solicit or accept other employment to be performed or  
141 compensation to be received while still a city official or employee if the employment or  
142 compensation could reasonably be expected to impair in judgment or performance of that  
143 official's or employee's city duties.
- 144 (i) If a city official or employee accepts or is soliciting a promise of future employment from  
145 any person or entity who has a substantial interest in a person, entity or property which  
146 would be affected by any decision upon which the official or employee might reasonably be  
147 expected to act, investigate, advise, or make a recommendation, the official or employee  
148 shall disclose the fact to the body on which he or she serves, or to his/her supervisor, and  
149 shall take no further action or matters regarding the potential future employer.
- 150 (j) No city official or employee shall use city facilities, personnel, equipment or supplies for  
151 private purposes, except to the extent such are lawfully available to the public.
- 152 (k) No city official or employee shall grant or make available to any person any consideration,  
153 treatment, advantage or favor beyond that which it is the general practice to grant or make  
154 available to the public at large.
- 155 (l) No city official or employee shall directly or indirectly solicit from a person or entity a gift,  
156 loan, favor, promise, or thing of value for him/herself or another person or entity if the city  
157 official or employee is, at the time of such solicitation, involved in any official act or action  
158 which would result in a benefit to the person or entity from whom the gift, loan, favor,  
159 promise or thing of value is solicited. However, the above prohibition shall not apply in the  
160 case of:

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- 161 (1) Occasional unsolicited non-monetary gift(s) and/or trinket(s) with a value of less than  
162 one hundred dollars (\$100.00), such as a calendar, memento, pen, and/or admission to or  
163 consumption of food and/or beverages at a function, social setting or event;
- 164 (2) An award publicly presented in recognition of public service;
- 165 (3) Any transaction authorized by and performed in accordance with O.C.G.A. § 16-10-6 as  
166 now or hereafter amended;
- 167 (4) A commercially reasonable loan or other financial transaction made in the ordinary  
168 course of business by an institution or individual authorized by the laws of Georgia to  
169 engage in the making of such loan or financial transaction;
- 170 (5) Campaign contributions made and reported in accordance with Georgia laws;
- 171 (6) Items listed under O.C.G.A. § 16-10-2 that are specifically itemized as "a thing of value  
172 shall not include" as now or hereafter amended; or
- 173 (7) Food, beverage or expenses afforded city officials or employees, members of their  
174 families, or others that are associated with normal and customary business or social  
175 functions or activities.

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

177 A city official or employee may not participate in a vote or decision on a matter affecting a  
178 person in whom the official or employee has a Substantial Interest or a matter affecting any  
179 property in which the official has a Substantial Interest in real property; in addition, a city  
180 official or employee who serves as a corporate officer or member of a board of directors of a  
181 nonprofit entity may not participate in a vote or decision regarding funding of the entity by or  
182 through the city. Where the interest of a city official or employee in the subject matter or a vote



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183 or decision is remote or incidental, the city official or employee may participate in the vote or  
184 decision and need not disclose the interest.

185 **Sec. 2-380. – Conflict of Interest Exemptions.**

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

191 **Sec. 2-381. - Severability.**

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

196 **Sec. 2-382. - Penalty.**

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

- 198 (1) Public reprimand and/or censure by the mayor and council;  
199 (2) A fine greater than one hundred dollars (\$100.00) but less than five hundred dollars  
200 (\$500.00); and  
201 (3) Request for resignation by the mayor and council.

202 **Sec. 2-383. - Filing of complaints.**

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

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

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

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

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

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

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

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

232 **Sec. 2-385. - Action upon complaints.**

233

234 (ad) Independent Ethics Hearings:

235 (1) Consistent with this subsection of the Charter, the City of Stonecrest shall appoint an  
236 Independent Administrative Law Judge ("ALJ") to adjudicate all ethics complaints for the  
237 City. Within thirty (30) days following the initial election of Mayor, the Chief Judge of the  
238 Superior Court of DeKalb County shall appoint an ALJ to a two (2) year term, who shall  
239 adjudicate all ethics complaints for the City.

240 (2) The ALJ shall have the authority to dismiss any claim that fails to state an ethics  
241 violation in accordance with this Article. The ALJ may hold evidentiary hearings to  
242 determine the facts and validity of each claim. The ALJ shall have the authority to levy  
243 finer, issue public reprimands or warnings, and refer violations to the DeKalb County  
244 Solicitor or DeKalb County District Attorney for further criminal investigation if needed.  
245 The ALJ may also recommend that a City official or City employee be removed from office  
246 or position for violations of this section, including but not limited to violations of the  
247 conflict of interest rules.

248 (3) The ALJ shall be compensated either on an hourly rate or at fixed fee per complaint,  
249 provided that such compensation shall be set by the City Council in its reasonable discretion

250 ~~at an amount comparable to that of similar part-time judicial and administrative hearing~~  
251 ~~positions. The ALJ shall have all reasonable itemized expenses reimbursed in compliance~~  
252 ~~with City reimbursement policies.~~

253 **(b) Mayor and City Council**

254 ~~(1) The mayor and council shall hear and render decisions on all ethics complaints filed with~~  
255 ~~the city. A quorum for purposes of taking action upon an ethics complaint is the mayor and~~  
256 ~~two councilmembers. If the mayor is a respondent to the ethics complaint, three~~  
257 ~~councilmembers shall constitute a quorum. If less than three (3) councilmembers are~~  
258 ~~available to constitute a quorum, due to the provisions in section 2-388 and/or 2-389 of this~~  
259 ~~Article, a mediator, certified by the Georgia Commission on Dispute Resolution, at the~~  
260 ~~mayor and council's discretion, shall be substituted for the mayor and/or any~~  
261 ~~councilmembers for purposes of acquiring a three (3) person quorum the Complaint shall be~~  
262 ~~heard before an Administrative Law Judge ("ALJ") in an administrative hearing. Ethics~~  
263 ~~complaints shall be reviewed as follows:~~

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264 **(A.a) Preliminary review of ethics complaints:**

265 ~~(1.4)~~ The city clerk shall schedule a meeting to occur within sixty (60) calendar days of  
266 an ethics complaint's filing for the mayor and council to vote upon whether the  
267 complaint will be dismissed or proceed to an ~~evidentiary~~ administrative hearing, and  
268 shall mail notice of such meeting to the complainant and the respondent at least thirty  
269 (30) days prior to such meeting.

270 ~~(2.2)~~ The mayor and council may dismiss any ethics complaints that they determine to  
271 ~~be~~ is unjustified, frivolous or patently unfounded; substantially noncompliant with the  
272 requirements of this Article; or fails to state facts sufficient to invoke the disciplinary

273 jurisdiction of the city council. The city clerk shall mail to the complainant and  
274 respondent the outcome of the preliminary review within five (5) calendar days of such  
275 meeting.

276 ~~(3.3)~~ If the mayor and council determine that the ethics complaint should proceed to an  
277 evidentiary ~~administrative~~ hearing, the city clerk shall schedule such hearing to occur  
278 within thirty (30) calendar days of the mayor and council's vote at the preliminary  
279 review.

280 ~~(B.b)~~ ~~Evidentiary-Administrative~~ hearing on ethics complaints:

281 ~~(1.1)~~ Should an ethics complaint proceed to an evidentiary hearing, the complainant  
282 and the respondent shall have the right to be represented by counsel; to hear, present and  
283 examine the evidence and witnesses; and to oppose or try to mitigate the allegations. The  
284 mayor and council may establish time limits, and other protocol, for the presentation of  
285 evidence and argument.

286 ~~(2.2)~~ The mayor and council shall render a final decision on the ethics complaint at an  
287 open meeting within thirty (30) calendar days of the conclusion of the hearing.

288 ~~(3.3)~~ The city clerk shall mail to the complainant and the respondent the mayor and  
289 council's final decision on the ethics complaint within five (5) calendar days of such  
290 decision.

291 ~~(C.e)~~ The mayor and council may vote to continue and/or postpone a scheduled meeting and/or  
292 hearing on an ethics complaint to a later selected date, as necessary. The grounds and date  
293 for the reset shall be stated in the official minutes for such meeting. The city clerk shall  
294 email to the complainant and the respondent notice of the reset meeting date within five (5)  
295 calendar days of such vote.

296 ~~(d) Independent Ethics Hearings:~~

297 ~~— (1) Consistent with this subsection of the Charter, the City of Stonecrest shall appoint an~~  
298 ~~Independent Administrative Law Judge (“ALJ”) to adjudicate all ethics complaints for the~~  
299 ~~City. Within thirty (30) days following the initial election of Mayor, the Chief Judge of the~~  
300 ~~Superior Court of DeKalb County shall appoint an ALJ to a two (2) year term, who shall~~  
301 ~~adjudicate all ethics complaints for the City.~~

302 ~~— (2) The ALJ shall have the authority to dismiss any claim that fails to state an ethics~~  
303 ~~violation in accordance with this Article. The ALJ may hold evidentiary hearings to~~  
304 ~~determine the facts and validity of each claim. The ALJ shall have the authority to levy~~  
305 ~~finer, issue public reprimands or warnings, and refer violations to the DeKalb County~~  
306 ~~Solicitor or DeKalb County District Attorney for further criminal investigation if needed.~~  
307 ~~The ALJ may also recommend that a City official or City employee be removed from office~~  
308 ~~or position for violations of this section, including but not limited to violations of the~~  
309 ~~conflict of interest rules.~~

310 ~~— (3) The ALJ shall be compensated either on an hourly rate or at fixed fee per complaint,~~  
311 ~~provided that such compensation shall be set by the City Council in its reasonable discretion~~  
312 ~~at an amount comparable to that of similar part-time judicial and administrative hearing~~  
313 ~~positions. The ALJ shall have all reasonable itemized expenses reimbursed in compliance~~  
314 ~~with City reimbursement policies.~~

315 **Sec. 2-386. - Charge of noncompliance.**

316 (a) After the filing of an ethics complaint, but at least five (5) days prior to the preliminary  
317 hearing, or evidentiary hearing if one is set, the respondent and/or complainant may file a  
318 charge of noncompliance with the city clerk, alleging that the complainant, respondent

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319 and/or any city employee/official has failed to meet a required deadline under this Article.

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

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

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

332 (c) The filer of the charge may also raise the charge of noncompliance as a threshold issue at the  
333 next scheduled public meeting on the ethics complaint. The mayor and council shall  
334 thereafter vote to determine whether the alleged deadline was missed. The mayor and  
335 council's finding of a material failure by the complainant to comply with this Article at any  
336 time may result in the ethics complaint's dismissal. The council's finding of a missed  
337 deadline by a city employee and/or official, without a finding of contributing negligence by  
338 the filer of the charge, shall give the filer of the charge the option to have the proceeding  
339 continued to the next available council meeting in lieu of being heard further that day.

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

STATE OF GEORGIA  
DEKALB COUNTY  
CITY OF STONECREST

ORDINANCE 2019-\_\_\_\_\_

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

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

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

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

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

355 (2) Substantively discuss the pending ethics complaint, including any of the facts,  
356 circumstances, or allegations supporting it with the mayor, any other councilmember, or  
357 any official or employee of the city, except at the meetings and/or hearings on the  
358 complaint. This provision shall not prevent the mayor or any city councilmember from  
359 communicating with city employees and officials with respect to facilitating and  
360 receiving required filings and notices under this Article.

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



STATE OF GEORGIA  
DEKALB COUNTY  
CITY OF STONECREST

ORDINANCE 2019-\_\_\_\_\_

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

365 **Sec. 2-390. - Statute of limitations.**

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

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

377 **Sec. 2-391. - Right to appeal.**

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

381 **Secs. 2-392 – 3-99. - Reserved.”**

382 **Section 2:**

383 1. It is hereby declared to be the intention of the Mayor and City Council that all sections,  
384 paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their

STATE OF GEORGIA  
DEKALB COUNTY  
CITY OF STONECREST

ORDINANCE 2019-\_\_\_\_\_

385 enactment, believed by the Mayor and City Council to be fully valid, enforceable and  
386 constitutional.

387  
388 2. It is hereby declared to be the intention of the Mayor and City Council that, to the  
389 greatest extent allowed by law, each and every section, paragraph, sentence, clause or  
390 phrase of this Ordinance is severable from every other section, paragraph, sentence,  
391 clause or phrase of this Ordinance. It is hereby further declared to be the intention of the  
392 Mayor and City Council that, to the greatest extent allowed by law, no section, paragraph,  
393 sentence, clause or phrase of this Ordinance is mutually dependent upon any other  
394 section, paragraph, sentence, clause or phrase of this Ordinance.

395  
396 3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance  
397 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise  
398 unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is  
399 the express intent of the Mayor and City Council that such invalidity, unconstitutionality,  
400 or unenforceability shall, to the greatest extent allowed by law, not render invalid,  
401 unconstitutional or otherwise unenforceable any of the remaining phrases, clauses,  
402 sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed  
403 by law, all remaining phrases, clauses, sentences, paragraphs and sections of the  
404 Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.  
405

406 4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith  
407 are hereby expressly repealed.  
408

409 5. The within ordinance shall become effective upon its adoption.  
410

411 6. The provisions of this Ordinance shall become and be made part of The Code of the City  
412 of Stonecrest, Georgia, and the sections of this Ordinance may be renumbered to  
413 accomplish such intention.  
414

415  
416 **SO ORDAINED AND EFFECTIVE** this the \_\_\_\_ day of \_\_\_\_\_, 2019.

417

418 Approved:

419

420

421

422

423

424

425

\_\_\_\_\_  
Jason Lary, Sr., Mayor

As to form:

STATE OF GEORGIA  
DEKALB COUNTY  
CITY OF STONECREST

ORDINANCE 2019-\_\_\_\_\_

426

427

428

429 \_\_\_\_\_  
Winston A. Denmark, City Attorney

430

431

432 Attest:

433

434

435

436 \_\_\_\_\_  
Leah Rodriguez, Interim City Clerk



**CITY COUNCIL AGENDA ITEM**

**SUBJECT: Budget Amendment to add LMIG Funds**

- ORDINANCE                       POLICY                                       STATUS REPORT  
 DISCUSSION ONLY                       RESOLUTION                                       OTHER

**Council Meeting: 02/11/2019**

---

**SUBMITTED BY: Mr. Harris, City Manager**

**PURPOSE: Discussion regarding amendment of Budget to Add Recently Received LMIG FUNDS**

**HISTORY: City applied for LMIG Funding in December 208 and received the funds in the amount of \$536,511.28 in January 2019**

**FACTS AND ISSUES:**

**OPTIONS:**

**RECOMMENDED ACTION: Move to regular Council meeting for approval of Budget Amendment**

Russell R. McMurry, P.E., Commissioner



GEORGIA DEPARTMENT OF TRANSPORTATION

One Georgia Center, 600 West Peachtree Street, NW  
Atlanta, Georgia 30308  
Telephone: (404) 631-1000

June 15, 2018

Mr. Jason Larry, Mayor  
City of Stonecrest  
3120 Stonecrest Blvd.  
Stonecrest, Georgia 30038

**RE: Fiscal Year 2019 Local Maintenance & Improvement Grant (LMIG) Program**

Dear Mayor Larry:

We are pleased to announce that the Department will begin accepting applications for the Fiscal Year 2019 LMIG Program on July 1, 2018. Please complete the attached application along with your Project Report form containing the road name, length of project, termini, type of work, project cost and construction let date. As a reminder, please mail your application package to the Chamblee District Office at **5025 New Peachtree Road, Chamblee, Georgia 30341 Attn: Lewis Brooker** instead of the Local Grants Office in Atlanta. All LMIG applications must be received in the District Office no later than January 1, 2019.

Your formula amount for the 2019 Program is **\$536,511.28** and your local match is **30%**. Each local government is required to match this formula amount in accordance with Code Section 48-8-244(d). The General Guidelines and Rules and other pertinent reports can be found on the Department's website at [www.dot.ga.gov/ps/local/lmig](http://www.dot.ga.gov/ps/local/lmig). We must receive a satisfactory status letter of your previous LMIG Grants before approval can be given on your FY 2019 application.

If you should have any questions regarding the LMIG Program please contact the Local Grants Office in Atlanta at (404) 347-0240. Thank you for your attention and cooperation in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Russell R. McMurry".

Russell R. McMurry, P.E.  
Commissioner

RRM:KHM  
Attachments

Cc: Ms. Kathy Zahul, P.E.; Files

**GEORGIA DEPARTMENT OF TRANSPORTATION LOCAL  
MAINTENANCE & IMPROVEMENT GRANT (LMIG)  
APPLICATION FOR FISCAL YEAR 2019  
TYPE OR PRINT LEGIBLY. ALL SECTIONS MUST BE COMPLETED.**

**LOCAL GOVERNMENT INFORMATION**

Date of Application: 11/26/18

Name of local government: City of Stonecrest

Address: 3120 Stonecrest Blvd, Stonecrest, GA 30038

Contact Person and Title: Plez Joyner, Assistant City Manager

Contact Person's Phone Number: 770-224-0200

Contact Person's Fax Number: \_\_\_\_\_

Contact Person's Email: pjoyner@stonecrestga.gov

Is the Priority List attached?  Yes

**LOCAL GOVERNMENT AFFIDAVIT AND CERTIFICATION**

I, Jason Lary (Name), the Mayor (Title), on behalf of The City of Stonecrest (Local Government), who being duly sworn do swear that the information given herein is true to the best of his/her knowledge and belief. Local Government swears and certifies that it has read and understands the LMIG General Guidelines and Rules and that it has complied with and will comply with the same.

Local government further swears and certifies that it has read and understands the regulations for the Georgia Planning Act of 1989 (O.C.G.A. § 45-12-200, et seq.), Service Delivery Strategy Act (O.C.G.A. § 36-70-20, et seq.), and the Local Government Budgets and Audits Act (O.C.G.A. 36-81-7 et seq.) and will comply in full with said provisions. Local government further swears and certifies that the roads or sections of roads described and shown on the local government's Project List are dedicated public roads and are part of the Public Road System in said county/city. Local government further swears and certifies that it complied with federal and/or state environmental protection laws and at the completion of the project(s), it met the match requirements as stated in the Transportation Investment ACT (TIA).

Further, the local government shall be responsible for any claim, damage, loss or expense that is attributable to negligent acts, errors, or omissions related to the designs, drawings, specifications, work and other services furnished by or on behalf of the local government pursuant to this Application ("Loss"). To the extent provided by law, the local government further agrees to hold harmless and indemnify the DEPARTMENT and the State of Georgia from all suits or claims that may arise from said Loss.

GEORGIA DEPARTMENT OF TRANSPORTATION LOCAL MAINTENANCE & IMPROVEMENT GRANT (LMIG) APPLICATION FOR FISCAL YEAR 2019

**LOCAL GOVERNMENT AFFIDAVIT AND CERTIFICATION**

If the local government fails to comply with these General Guidelines and Rules, or fails to comply with its Application and Certification, or fails to cooperate with the auditor(s) or fails to maintain and retain sufficient records, the DEPARTMENT may, at its discretion, prohibit the local government from participating in the LMIG program in the future and may pursue any available legal remedy to obtain reimbursement of the LMIG funds. Furthermore, if in the estimation of the DEPARTMENT, a roadway or bridge shows evidence of failure(s) due to poor workmanship, the use of substandard materials, or the failure to follow the required design and construction guidelines as set forth herein, the Department may pursue any available legal remedy to obtain reimbursement of the allocated LMIG funds or prohibit local government from participating in the LMIG program until such time as corrections are made to address the deficiencies or reimbursement is made. All projects identified on the Project list shall be constructed in accordance with the Department's Standard Specifications of Transportation Systems (Current Edition), Supplemental Specifications (Current Edition), and Special Provisions.

Local Government:

\_\_\_\_\_(Signature)

\_\_\_\_\_(Print)

Mayor / Commission Chairperson

\_\_\_\_\_(Date)

LOCAL GOVERNMENT SEAL:

\_\_\_\_\_  
E-Verify Number

Sworn to and subscribed before me,

This \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

In the presence of:

NOTARY PUBLIC

\_\_\_\_\_  
My Commission Expires:

NOTARY SEAL:

**FOR GDOT USE ONLY**

The local government's Application is hereby granted and the amount allocated to the local government is \_\_\_\_\_. Such allocation must be spent on any or all of those projects listed in the Project List.

This \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
GDOT Office of Local Grants

## 2019 LMIG PROJECT REPORT

COUNTY / CITY City of Stonecrest

ROAD NAME	BEGINNING	ENDING	LENGTH (Miles)	DESCRIPTION OF WORK	PROJECT COST	PROJECT LET DATE
ROBERTSON PATH	FANNIN DR	CUL DE SAC @ 5388	0.10	Mill and Overlay	\$42,756	Spring, 2019
RADFORD LN	FANNIN DR	CUL DE SAC @ 5386	0.10	Mill and Overlay	\$43,382	Spring, 2019
PHILLIPS PL	PHILLIPS RD	CUL DE SAC @ 6437	0.34	Mill and Overlay	\$122,073	Spring, 2019
PENN CIR	PARK CENTRAL BLVD	CUL DE SAC	0.11	Mill and Overlay	\$49,945	Spring, 2019
PALM TREE DR	PANOLA MILL DR	CUL DE SAC @ 3261	0.32	Mill and Overlay	\$120,248	Spring, 2019
LOST DUTCHMAN DR	MINERS CREEK RD	CUL DE SAC & D.E.	0.42	Mill and Overlay	\$160,509	Spring, 2019
HUNTERS PACE CIR	HUNTERS PACE DR	CUL DE SAC @ 5510	0.07	Mill and Overlay	\$30,029	Spring, 2019
HUNTERS CROSSING FORD	HUNTERS CROSSING CT	CUL DE SAC @ 5687	0.10	Mill and Overlay	\$40,814	Spring, 2019



## 2019 LMIG PROJECT REPORT

COUNTY / CITY      City of Stonecrest

ROAD NAME	BEGINNING	ENDING	LENGTH (Miles)	DESCRIPTION OF WORK	PROJECT COST	PROJECT LET DATE
WEST MORGANS BLUFF CT	MARBUT RD	CUL DE SAC @ 2039	0.19	Mill and Overlay	\$70,072	Spring, 2019
LEVERETT DR	6083-84 LEVERETT DR	6132-36 LEVERETT DR	0.14	Mill and Overlay	\$45,736	Spring, 2019
ABERDEEN WAY	CUL DE SAC @ 3170	3080 ABERDEEN WAY	0.20	Mill and Overlay	\$76,087	Spring, 2019
BROWNS MILL LAKE CT	BROWNS MILL LAKE RD	CUL DE SAC	0.07	Mill and Overlay	\$34,213	Spring, 2019
WINSLOW CROSSING	PEQUEA DR	DEAD END @ 5552	0.54	Mill and Overlay	\$187,498	Spring, 2019
SOUTH PORTSMOUTH CIR	PORTSMOUTH CIR	CUL DE SAC @ 3534	0.03	Mill and Overlay	\$18,060	Spring, 2019
SHERWOOD TRACE	TRENT JONES WAY	69' N OF DOGWOOD MINR	0.05	Mill and Overlay	\$18,763	Spring, 2019
ROCK PORT LN	ROCK PORT DR	6140 to 6124	0.08	Mill and Overlay	\$26,281	Spring, 2019



## GDOT LMIG APPLICATION CHECKLIST

1. Local Government **must include a cover letter** with their LMIG Application. The cover letter shall include the following:
  - a. Overview of type of project(s) being requested
  - b. Status of previous LMIG funding
  - c. Signature of Mayor or County Commission Chairperson
2. The LMIG Application Form shall include the following:
  - a. Signature of Mayor or County Commission Chairperson
  - b. County/City Seal
  - c. Notary signature and seal
3. Project List including a brief description of work to be done at each location.



**CITY COUNCIL AGENDA ITEM**

**SUBJECT: Cell Tower Ordinance**

- ORDINANCE**                       **POLICY**                                       **STATUS REPORT**  
 **DISCUSSION ONLY**               **RESOLUTION**                                       **OTHER**

**Council Meeting: 02/11/2019**

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**SUBMITTED BY: Council Members Diane Adoma and Rob Turner**

**PURPOSE:**

**HISTORY:**

**FACTS AND ISSUES:**

**OPTIONS:**

**RECOMMENDED ACTION:**

**August 2018**

**MODEL CODE FOR MUNICIPALITIES**

**National League of Cities**

**and**

**National Association of Telecommunications Officers and Advisors**

**NOTE: WHEN CONSIDERING ADOPTION OF THIS MODEL CODE, LOCAL GOVERNMENTS SHOULD CONSIDER THAT THERE MAY BE FEDERAL, STATE OR LOCAL LAWS THAT COULD LIMIT OR OTHERWISE AFFECT VARIOUS TERMS AND PROVISIONS SET FORTH HEREIN. CIRCUMSTANCES OF EACH LOCAL GOVERNMENT MAY REQUIRE MODIFICATIONS OF THIS MODEL CODE. THE MODEL CODE IS NOT INTENDED TO PROVIDE LEGAL ADVICE AND WE STRONGLY ENCOURAGE LOCALITIES TO CONSULT WITH AN ATTORNEY BEFORE ADOPTION ANY PORTION OF THIS MODEL CODE.**

## PREAMBLE

### Background

On January 31, 2017, Federal Communications Commission Chairman Ajit Pai established a Broadband Deployment Advisory Committee (BDAC), which he tasked with making recommendations to the FCC on ways to accelerate the deployment of broadband by reducing or removing regulatory barriers to infrastructure investment. Among other tasks, Chairman Pai asked the BDAC to draft a model code for municipalities that could assist local governments in enacting ordinances authorizing wireless and wireline broadband deployment in the public rights of way.

In the summer of 2018, the BDAC voted to recommend its model code for municipalities to the FCC. The BDAC model states that it recognizes the "enormous diversity [among local governments] based on geography, size, resources, aesthetics, existing infrastructure, regulatory and legal framework, history, culture, and community priorities" and states its intent to create a "non-binding, flexible guideline." While we agree with these statements and appreciate the hard work of the BDAC members, we believe local governments could benefit from an alternative model code that reflects the range of legal and policy options open to municipalities.

### NLC and NATOA's Alternative Model Code

There is no single model code that will work for every jurisdiction. As such, NLC and NATOA's model code is intended as a roadmap to assist local governments in adopting their own ordinances governing use of the rights of way by communications providers. While example language is included in some sections, we do not intend to suggest these examples could work for every jurisdiction.

We also recognize there are many ways to structure an ordinance authorizing use of the rights of way by wireless and wireline communications providers. The appropriate structure will vary by jurisdiction. For purposes of this model code, we opted to use a similar approach as the BDACs model code to provide an opportunity to compare and contrast the two models. Thus, the general concept of this model, like the BDAC model, is to:

- (1) Outline the mechanism for authorizing use of the rights of way by wireless and wireline communications providers (*e.g.*, franchise agreements, right of way use agreements, licenses, *etc.*);
- (2) Provide a mechanism for administrative approval of deployments that meet specific criteria, which will allow for faster deployment of certain facilities where discretionary review and/or public hearings are unnecessary; and
- (3) Establish the requirements for working in the rights of way to install communications facilities.

The model is intended to provide a general framework and thus is drafted as an outline of provisions jurisdictions may want to include in their final ordinance. In many cases example language is provided to help illustrate the issues to be addressed and, in some cases, to provide an alternative to similar language found in the BDAC model. However, the intent is to allow each jurisdiction to draft the substantive provisions that best reflect local needs and interests.

Note that the NLC/NATOA model code does not authorize attachments to poles or structures in the rights of way, which involves considerations, such as make-ready work and attachment fees, that have not been addressed in this model. We recommend that jurisdictions that own poles or other structures in the rights of way establish a clear process for authorizing attachments to those structures, which may be incorporated into this code or established as a stand-alone process.

Finally, please note that this model is not intended to, and does not, address or reflect state and local laws or any limitations on local authority. The circumstances of each municipality may, and likely will, require modifications to the framework and/or example language of this model code. The model code is not intended to provide legal advice and we strongly encourage municipalities to consult with an attorney before adopting any portion of this model code.

### **Additional Considerations**

As described above, NLC and NATOA followed the general framework of the BDAC model code, which applies only to wireless and wireline communications providers, including cable operators, telecommunications providers and information services providers. Municipalities should review their existing ordinances and policies to determine if this framework is appropriate. Municipalities may want to consider whether it would be preferable to adopt a utility-neutral ordinance covering all utilities and communications providers, which would provide one set of "rules" for use of the public rights of way. Differences in state laws, local authority and policy choices, existing ordinances and rights of way agreements, among other things, may impact the decision in how to proceed.

### **Understanding the Organization of the Model Code**

As stated above, the model code is best described as an outline or roadmap to assist municipalities in drafting the appropriate ordinance for their community. Most sections of the model code begin with an overview of the purpose of the Section. This explanation is bracketed and in ALL CAPS, and is intended as guidance for municipal drafters, not for adoption in a final ordinance.

Most subsections include a general explanation of the type of provision a municipality may wish to include in its ordinance, which is intended as guidance rather than proposed language for adoption in a final ordinance. These instructions generally are at the beginning of a subsection and are in plain text.

In some sections, the model code includes example language to illustrate the intent of the section. The example language, or a variation thereof, may be appropriate for adoption in a final ordinance in some jurisdictions. Example language is in *italics*.

Finally, there may be additional notes or issues for consideration within the subsections of the model code, which are bracketed and in ALL CAPS. Again, these notes are intended as guidance for municipal drafters, not for adoption in a final ordinance.

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Article I. Title and Definitions

Section 1.1 Title

[INSERT APPROPRIATE TITLE FOR THIS CHAPTER]

Section 1.2 Definitions. [THE FOLLOWING DEFINITIONS ARE EXAMPLES ONLY; JURISDICTIONS SHOULD ADOPT DEFINITIONS THAT REFLECT STATE LAW AND LOCAL AUTHORITY AND POLICIES.]

- a. *“Administrative Review” means ministerial review of an Application by the Authority relating to the review and issuance of a Permit, including review by the [insert appropriate staff and designee, if desired] to determine whether the issuance of a Permit is in conformity with the applicable provisions of this Chapter.*
- b. *“Antenna” means communications equipment that transmits and/or receives electromagnetic radio frequency signals used in the provision of Wireless Services. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.*
- c. *“Applicable Codes” means uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization to the extent such codes have been adopted by the Authority, including any amendments adopted by the Authority, or otherwise are applicable in the jurisdiction.*
- d. *“Applicant” means any Person who submits an Application under this Chapter.*
- e. *“Application” means a written request, on a form provided by the Authority, for a Permit. [IF THE JURISDICTION DOES NOT HAVE A PERMIT FORM, DELETE “ON A FORM PROVIDED BY THE AUTHORITY” IN THE DEFINITION.]*
- f. *“Authority” means the [city/town/etc of \_\_\_\_\_] or any agency, subdivision or any instrumentality thereof. [THIS MODEL USES THE TERM “AUTHORITY” FROM THE BDAC MODEL. JURISDICTIONS SHOULD CONSIDER USING THE TERM FOR THE CITY/TOWN/ETC. THAT IS CONSISTENT WITH OTHER PROVISIONS OF THEIR CODE.]*
- g. *“Collocate” means to install or mount a Small Wireless Facility in the Public ROW on an existing Support Structure, an existing Tower, or on an existing Pole to which a Small Wireless Facility is attached at the time of the Application. “Collocation” has a corresponding meaning.*
- h. *“Communications Facility” means, collectively, the equipment at a fixed location or locations within the Public ROW that enables Communications Services, including: (i) radio transceivers, Antennas, coaxial, fiber-optic or other cabling, power supply (including backup battery), and comparable equipment, regardless of technological configuration; and (ii) all other equipment associated with any of the foregoing. A Communications Facility does not include the Pole, Tower or Support Structure to which the equipment is attached.*

- i. **“Communications Service”** means cable service, as defined in 47 U.S.C. § 522(6); information service, as defined in 47 U.S.C. § 153(24); or telecommunications service, as defined in 47 U.S.C. § 153(53). [CONSIDER REVISING THIS DEFINITION TO REFER TO “BROADBAND” RATHER THAN “INFORMATION SERVICES,” OR OTHERWISE ESTABLISH THAT AN INTERNET PROVIDER MUST PROVIDE CERTAIN MINIMUM SPEEDS TO BE ELIGIBLE TO FILE AN APPLICATION UNDER THIS CHAPTER.]
- j. **“Communications Service Provider”** means a provider of Communications Services and includes a cable operator, as defined in 47 U.S.C. § 522(5).
- k. **“Decorative Pole”** means a Pole that is specially designed and placed for aesthetic purposes.
- l. **“Discretionary Review”** means review of an Application by the Authority relating to the review and issuance of a Permit that is other than an Administrative Review.
- m. **“Eligible Facilities Request”** means an eligible facilities request as set forth in 47 C.F.R. Section 1.40001(b)(3), as that section may be amended from time to time.
- n. **“FCC”** means the Federal Communications Commission of the United States.
- o. **“Laws”** means, collectively, any and all Federal, State, or local law, statute, common law, code, rule, regulation, order, or ordinance.
- p. **“Ordinary Maintenance and Repair”** means inspections, testing and/or repair that maintain functional capacity, aesthetic and structural integrity of a Communications Facility and/or the associated Support Structure, Pole or Tower, that does not require blocking, damaging or disturbing any portion of the Public ROW. [NOTE THAT THIS TERM IS USED IN SECTION 2.2.d, WHICH EXEMPTS ORDINARY MAINTENANCE AND REPAIR FROM THE PERMIT REQUIREMENT. THIS DEFINITION SHOULD BE REFINED TO REFLECT THE TYPE OF WORK IN THE ROW THE MUNICIPALITY WILL ALLOW WITHOUT A PERMIT. ALTERNATIVELY, THIS DEFINITION AND SECTION 2.2.d MAY BE DELETED IF THE JURISDICTION'S POLICY IS TO REQUIRE A PERMIT FOR ALL WORK IN THE ROW.]
- q. **“Permit”** means a written authorization (in electronic or hard copy format) to install, at a specified location(s) in the Public ROW, a Communications Facility, Tower or a Pole to support a Communications Facility.
- r. **“Permittee”** means an Applicant that has received a Permit under this Chapter.
- s. **“Person”** means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including a governmental entity.
- t. **“Pole”** means a legally constructed pole, such as a utility, lighting, traffic, or similar pole made of wood, concrete, metal or other material, located or to be located within the Public Right of Way. A Pole does not include a Tower or Support

Structure and does not include a pole or structure that supports electric transmission lines.

- u. **“Provider”** means a Communications Service Provider or a Wireless Services Provider, and includes any Person that owns and/or operates within the Public ROW any Communications Facilities, Wireless Facilities, Poles built for the sole or primary purpose of supporting Communications Facilities, or Towers.
- v. **“Public Right of Way” or “Public ROW”** means the area on, below, or above property that has been designated for use as or is used for a public roadway, highway, street, sidewalk, alley or similar purpose, and for purposes of this Chapter shall include Public Utility Easements, but only to the extent the Authority has the authority to permit use of the area or Public Utility Easement for Communications Facilities or Poles, Towers and Support Structures that support Communications Facilities. The term does not include a federal interstate highway or other areas that are not within the legal jurisdiction, ownership or control of the Authority.
- w. **“Public Utility Easement”** means, unless otherwise specified or restricted by the terms of the easement, the area on, below, or above a property in which the property owner has dedicated an easement for use by utilities. Public Utility Easement does not include an easement dedicated solely for Authority use, or where the proposed use by the Provider is inconsistent with the terms of any easement granted to the Authority.
- x. **“Replace” or “Replacement”** means, in connection with an existing Pole, Support Structure or Tower, to replace (or the replacement of) same with a new structure, substantially similar in design, size and scale to the existing structure and in conformance with this Chapter and any other applicable Authority [charter/code regulations], in order to address limitations of the existing structure to structurally support Collocation of a Communications Facility.
- y. **“Small Wireless Facility”** means a Wireless Facility that meets both of the following qualifications: (i) each Antenna could fit within an enclosure of no more than \_\_\_ ( ) cubic feet in volume; and (ii) all other wireless equipment associated with the Antenna, including the Provider’s preexisting equipment, is cumulatively no more than \_\_\_\_\_ ( ) cubic feet in volume. [THIS DEFINITION IS A MODIFICATION OF THE BDAC MODEL DEFINITION. JURISDICTIONS SHOULD CONSIDER WHETHER ANOTHER DEFINITION WOULD BE MORE APPROPRIATE, SUCH AS AN OVERALL VOLUME LIMIT (NOT ONE LIMIT FOR ANTENNAS AND ONE FOR OTHER EQUIPMENT) OR OTHER MEASURES OF SIZE LIMITS. NOTE THAT THE VOLUME LIMITS LEAVE ROOM FOR DIFFERENT SHAPES (E.G., VERY TALL AND THIN) THAT MAY NOT BE DESIRABLE. IF THIS IS A CONCERN, THIS DEFINITION SHOULD BE REVISED OR IT SHOULD BE ADDRESSED THROUGH THE DESIGN STANDARDS IN THIS CHAPTER. NOTE ALSO THAT THE BDAC MODEL AND SOME STATE LAWS EXCLUDE CERTAIN EQUIPMENT FROM THE VOLUME CALCULATION, WHICH SOME JURISDICTIONS MAY WANT TO INCORPORATE IN THIS DEFINITION IF APPROPRIATE.]
- z. **“State”** means the [State/Commonwealth] of \_\_\_\_\_.

- aa. **“Support Structure”** means a structure in the Public ROW other than a Pole or a Tower to which a Wireless Facility is attached at the time of the Application.
- bb. **“Tower”** means any structure in the Public ROW built for the sole or primary purpose of supporting a Wireless Facility. A Tower does not include a Pole or a Support Structure.
- cc. **“Wireless Facility”** means the equipment at a fixed location or locations in the Public ROW that enables Wireless Services. The term does not include: (i) the Support Structure, Tower or Pole on, under, or within which the equipment is located or Collocated; or (ii) coaxial, fiber-optic or other cabling that is between Communications Facilities or Poles or that is otherwise not immediately adjacent to or directly associated with a particular Antenna. A Small Wireless Facility is one type of a Wireless Facility.
- dd. **“Wireless Services”** means any wireless services using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided to the public.
- ee. **“Wireless Services Provider”** means a Person who provides Wireless Services.

**Article II. Governance of Deployment in the Public ROW**

**Section 2.1 Access to Public ROW** [THIS SECTION REQUIRES A FRANCHISE, ROW AGREEMENT, LICENSE OR OTHER AUTHORIZATION FOR USE OF THE PUBLIC ROW. THIS SECTION SHOULD BE ADJUSTED WHERE A MUNICIPALITY DOES NOT HAVE AUTHORITY TO REQUIRE A FRANCHISE/AGREEMENT/LICENSE. THIS SECTION MAY INCLUDE THE TERMS AND CONDITIONS FOR USE OF THE ROW OR IT MAY SIMPLY STATE THAT A NEGOTIATED FRANCHISE/ROW USE AGREEMENT IS REQUIRED. NOTE THAT THIS CODE DOES NOT ADDRESS AUTHORITY TO ATTACH TO AUTHORITY-OWNED POLES OR STRUCTURES IN THE ROW. THIS CODE SHOULD STATE THAT A SEPARATE ATTACHMENT AGREEMENT IS REQUIRED (OR, ALTERNATIVELY, THAT ATTACHMENT TO AUTHORITY-OWNED POLES WILL BE INCLUDED IN THE ROW USE FRANCHISE/AGREEMENT, IF THAT IS THE PREFERENCE).]

- a. Agreement. State that an agreement is required to authorize installation of Communications Facilities in the Public ROW. [For example: “Prior to installing in the Public ROW any Communications Facility, or any Pole built for the sole or primary purpose of supporting a Communications Facility, or any Tower, a Person shall enter into a [Right of Way Agreement; Franchise Agreement; License Agreement] with the Authority expressly authorizing use of the Public Right of Way for the Communications Facility, Pole or Tower proposed to be installed.”]
- (i) General Terms [THE FOLLOWING IS A SUGGESTED LIST OF GENERAL PROVISIONS THAT COULD BE INCORPORATED INTO FRANCHISES OR OTHER ROW USE AGREEMENTS, AGREED TO AS PART OF ROW LICENSE OR OTHERWISE REQUIRED OF ALL PROVIDERS.]
  - (A) Include the maximum term of the agreement, including any renewals, and the bases for termination. [CONSIDER

FOLLOWING SIMILAR PROVISIONS OF EXISTING ROW ORDINANCES OR AGREEMENTS.]

- (B) State the scope of authority granted in the franchise/agreement/license. [For example: *"The [franchise/agreement/license] authorizes the Provider's non-exclusive use of the Public ROW for the sole purpose of installing, maintaining and operating Communications Facilities, including any Pole built for the sole or primary purpose of supporting the Communications Facilities and any Tower, to provide the services expressly authorized in the [franchise/agreement/license], subject to applicable Laws, this Chapter and the terms and conditions of the [franchise/agreement/license]. The [franchise/agreement/license] authorizes use only of the Public ROW in which the Authority has an actual interest. It is not a warranty of title or interest in any Public ROW and it does not confer on the Provider any interest in any particular location within the Public ROW. No other right or authority is granted except as expressly set forth in the [franchise/agreement/license]. Nothing herein shall authorize the use of the Authority's Poles, Towers, Support Structures, or other structures in the Public ROW. All use of Authority Poles, Towers, Support Structures, and other structures in the Public ROW shall require a separate agreement, and the payment of separate fees for such use."*
  - (C) Include general maintenance obligations. [For example: *"The Provider shall, at its sole cost and expense, keep and maintain its Communications Facilities, Poles, Support Structures and Towers in the Public ROW in a safe condition, and in good order and repair."*]
  - (D) Include specific indemnification and insurance requirements. [CONSIDER FOLLOWING SIMILAR PROVISIONS OF EXISTING ROW ORDINANCES OR AGREEMENTS.]
  - (E) Emergency contacts and required response to emergencies related to facilities. [CONSIDER FOLLOWING SIMILAR PROVISIONS OF EXISTING ROW ORDINANCES OR AGREEMENTS.]
  - (F) Assignment and sublicensing. [For example: *"Lessees or licensees using space in ducts, conduits and on Poles must comply with the terms of this [agreement/Chapter], unless expressly exempted by the Authority."*]
  - (G) Include the Authority's right to access books and records, including audit rights. [CONSIDER FOLLOWING SIMILAR PROVISIONS OF EXISTING ROW ORDINANCES OR AGREEMENTS.]
- (ii) Public ROW Construction and Installation Requirements. [CONSIDER INSERTING REFERENCE TO EXISTING ROW CONSTRUCTION REQUIREMENTS; IF NO REQUIREMENTS EXIST, CONSIDER ADDING

STANDARDS APPLICABLE TO ALL ROW USERS (I.E., ALL UTILITIES, CABLE, TELECOMS, ETC.) TO THE APPROPRIATE CHAPTER OF THE CODE OR DEVELOPING STANDARDS TO INSERT IN THIS SECTION. THE FOLLOWING IS A SUGGESTED LIST OF PROVISIONS TO ADDRESS:]

(A) ROW Permit.

1. State that permits are required. [For example: *“Unless expressly authorized in this Chapter or in writing by the Authority, no Person may construct, maintain or perform any other work in the Public ROW related to Communications Facilities, Poles built for the sole or primary purpose of supporting Communications Facilities, or Towers without first receiving a Permit to the extent required under this Chapter, and any other permit or authorization required by applicable Laws.”*] [CONSIDER ADDING A CROSS-REFERENCE TO ANY OTHER PERMITS THAT MAY BE REQUIRED, SUCH AS A STREET OPENING PERMIT, ELECTRICAL PERMIT, ETC.]
2. State that permits will not be issued unless the Provider has a franchise/agreement/license, if required, and has paid all applicable fees. [For example: *“The Authority shall not issue a Permit unless the Applicant, or a Provider on whose behalf the Applicant is constructing Communications Facilities, Poles or Towers, has applied for and received the [franchise/agreement/license] required by this Chapter, or otherwise has a current and valid franchise with the Authority expressly authorizing use of the Public ROW for the Communications Facilities, Poles or Towers proposed in the Application, and all applicable fees have been paid.”*]

(B) Location of New Facilities.

1. Include general non-interference language. [For example: *“The Provider shall not locate or maintain its Communications Facilities, Poles and Towers so as to unreasonably interfere with the use of the Public ROW by the Authority, by the general public or by other persons authorized to use or be present in or upon the Public ROW.”*]
2. Describe the required location and requirements for above-ground placement of new poles and equipment cabinets (e.g., distance from curb/sidewalk/lot lines; line of sight for traffic; labeling requirements; noise limits; etc.). Consider cross-referencing the design standards described below where the standards impact location of facilities.
3. State when new facilities must be placed underground; consider the circumstances in which wireless facilities may

remain above-ground in the ROW even where other facilities are underground. [For example: *“Unless otherwise agreed to in writing by the Authority or otherwise required by applicable Laws, whenever any existing electric utilities or Communications Facilities are located underground within a Public ROW, the Provider with permission to occupy the same portion of the Public ROW shall locate its Communications Facilities underground at its own expense. The Authority may, in its sole discretion, approve above-ground placement of equipment cabinets, pedestals and similar equipment. For facilities or equipment such as Wireless Facilities that cannot, by their nature, operate unless located above-ground, the Provider and Authority shall work to find a suitable location for such facilities or equipment, which may be outside the Public ROW.”*]

(C) Construction Standards.

1. Require the Provider and its contractors to comply with applicable safety requirements, permits, traffic control requirements, etc. Refer to or incorporate existing ROW construction standards. [For example: *“In performing any work in or affecting the Public ROW, the Provider, and any agent or contractor of the Provider, shall comply with the provisions of Section 2.5 of this Chapter and all other applicable Laws, including [INSERT CROSS REFERENCE TO OTHER APPLICABLE AUTHORITY CODES, IF ANY].”*]

(D) Restoration Requirements.

1. Require the Provider and its contractors to comply with applicable restoration requirements. Refer to or incorporate existing ROW construction standards. [For example: *“The Provider, or its agent or contractor, shall restore, repair and/or replace any portion of the Public ROW that is damaged or disturbed by the Provider’s Communications Facilities, Poles, Towers or work in or adjacent to the Public ROW as required in Section 2.5 of this Chapter and all other applicable Laws, including [INSERT CROSS REFERENCE TO OTHER APPLICABLE AUTHORITY CODES, IF ANY].”*].
2. Include authority of the municipality to complete the restoration, at provider’s cost, if the provider fails to do so. [For example: *“If the Provider fails to timely restore, repair or replace the Public ROW as required in this subsection, the Authority or its contractor may do so and the Provider shall pay the Authority’s costs and expenses in completing the restoration, repair or replacement.”*]

(E) Removal, Relocation and Abandonment.

1. Describe the requirement to relocate or remove facilities consistent with state law and local policies. Include the timeline to complete relocation/removal. [For example: *"Within \_\_\_\_ (\_\_\_\_) days following written notice from the Authority, the Provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any of its Communications Facilities, Poles, Support Structures or Towers within the Public ROW, including relocation of above-ground Communications Facilities underground (consistent with the provisions of this Chapter), whenever the Authority has determined, in its sole discretion, that such removal, relocation, change or alteration is necessary for the construction, repair, maintenance, or installation of any Authority [OR public OR governmental body] improvement, the operations of the Authority [OR public OR governmental body] in, under or upon the Public ROW, or otherwise is in the public interest. The Provider shall be responsible to the Authority for any damages or penalties it may incur as a result of the Provider's failure to remove or relocate Communications Facilities, Poles, Support Structures or Towers as required in this subsection."*]
2. Include relocation/removal authority of the municipality in the event of an emergency. [For example: *"The Authority retains the right and privilege to cut or move any Communications Facility, Pole, Support Structure or Tower located within the Public ROW of the Authority, as the Authority may determine, in its sole discretion, to be necessary, appropriate or useful in response to any public emergency. If circumstances permit, the Authority shall notify the Provider and give the Provider an opportunity to move its own facilities prior to cutting or removing the Communications Facility, Pole, Support Structure or Tower. In all cases the Authority shall notify the Provider after cutting or removing the Communications Facility, Pole, Support Structure or Tower as promptly as reasonably possible."*]
3. Address the providers' obligations relative to abandoned facilities. Include a timeline for removal and restoration; consider whether to allow facilities to be abandoned in place and whether the provider will remain responsible for abandoned facilities or if the municipality may choose to take ownership. [For example: *"A Provider shall notify the Authority of abandonment of any Communications Facility, Pole, Support Structure or Tower at the time the decision to abandon is made, however, in no case shall such notification be made later than 30 days prior to*



*abandonment. Following receipt of such notice, the Provider shall remove its Communications Facility, Pole, Support Structure or Tower at the Provider's own expense, unless the Authority determines, in its sole discretion, that the Communications Facility, Pole, Support Structure or Tower may be abandoned in place. The Provider shall remain solely responsible and liable for all of its Communications Facilities, Poles, Support Structures and Towers until they are removed from the Public ROW unless the Authority agrees in writing to take ownership of the abandoned Communications Facilities, Poles, Support Structures or Towers."}]*

4. Include authority of the municipality to complete the relocation/removal, at provider's cost, if the provider fails to do so. [For example: *"If the Provider fails to timely protect, support, temporarily or permanently disconnect, remove, relocate, change or alter any of its Communications Facilities, Poles, Support Structures or Towers or remove any of its abandoned Communications Facilities, Poles, Support Structures or Towers as required in this subsection, the Authority or its contractor may do so and the Provider shall pay all costs and expenses related to such work, including any delay damages or other damages the Authority incurs arising from the delay."}]*

(F) As-builts and Maps.

1. Require maps showing location of equipment in ROW and as-builts after construction; specify, if desired, the required format for maps. [CONSIDER INCLUDING OR REFERENCING SIMILAR PROVISIONS OF EXISTING ROW ORDINANCES OR AGREEMENTS.]

(G) [CONSIDER ADDING OTHER DESIRED ROW CONSTRUCTION-RELATED REQUIREMENTS, SUCH AS "DIG ONCE" REQUIREMENTS/INSTALLATION OF EXCESS CONDUIT FOR THE AUTHORITY AT INCREMENTAL COST.]

b. Fees and Charges. [INSERT EXISTING APPLICABLE FEES AND CHARGES OR ESTABLISH NEW FEES AND CHARGES. BELOW ARE EXAMPLES OF POSSIBLE FEES AND CHARGES:]

- (i) **Permit Application Fee.** Insert the appropriate fee for each Permit Application submitted under this Chapter. [For example: *"Every Applicant shall pay a Permit application fee of [\$\_] for each Application. The fee shall be paid upon submission of the Application."*] [CONSIDER ALLOWING BATCH PERMITS WITH LOWER FEES FOR SUBSEQUENT PERMITS. FOR EXAMPLE: *"Every Applicant shall pay a Permit application fee of [\$\_] for a single Application, and [\$\_] for multiple Applications of up to [insert number] Applications submitted simultaneously by a*

*Provider pursuant to Section 2.2.i." "The fee shall be paid upon submission of the Application(s)."]*

- (ii) **Agreement/License Application Fee.** Insert the appropriate fee for reviewing and issuing the ROW franchise/agreement/license required under this Chapter. [For example: *"Every Person requesting a [Right of Way Agreement; Franchise Agreement; License Agreement] from the Authority shall pay an application fee of [\$\_\_\_], which shall be paid upon submission of the [Right of Way Agreement; Franchise Agreement; License Agreement] application."*]
- (iii) **ROW Use Fee.** Insert the appropriate fee to be paid for use of the Public ROW. [For example: *"In exchange for the privilege of non-exclusive occupancy of the Public ROW, the Provider shall pay the Authority [[\$\_\_\_] per installation or other calculation] (the "ROW Use Fee"). The ROW Use Fee shall be due and payable within thirty (30) days of [issuance of the [Right of Way Agreement; Franchise Agreement; License]] [issuance of the applicable Permit(s) required under this Chapter] and [annually/quarterly/monthly] thereafter. Late payments shall be subject to interest at a rate of [\_\_\_] [and a penalty of \_\_]."*] [IF THERE IS NO AGREEMENT OR LICENSE FOR USE OF THE ROW, CONSIDER INCLUDING AUDIT RIGHTS IN THIS SECTION. NOTE THAT THIS CODE DOES NOT ADDRESS ATTACHMENT FEES FOR ATTACHING TO AUTHORITY POLES OR STRUCTURES IN THE ROW. TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, ANY ATTACHMENT FEES SHOULD BE ADDRESSED ELSEWHERE OR, IF REQUIRED OR PREFERRED, INCORPORATED IN THIS CODE ALONG WITH OTHER PROVISIONS UNIQUE TO ATTACHMENTS (E.G., MAKE READY AND RELOCATION OF EXISTING ATTACHMENTS).]
- (iv) **Other Fees.** State that other fees may apply. [For example: *"The Applicant or Provider shall be subject to any other generally applicable fees of the Authority or other government body, such as those required for electrical permits, building permits, or street opening permits, which the Applicant or Provider shall pay as required in the applicable Laws, as well as attachment fees for the use of Authority owned Poles, Towers, Support Structures, ducts, conduits or other structures in the Public ROW, as set forth in attachment agreements authorizing such use."*] [CONSIDER INCLUDING A CROSS REFERENCE TO GENERALLY APPLICABLE AUTHORITY FEES THAT WOULD APPLY.]
- (v) **No Refund.** State the policy on refunding any fees. [For example: *"Except as otherwise provided in a [Right of Way Agreement; Franchise Agreement; License], the Provider may remove its Communications Facilities, Poles or Towers from the Public ROW at any time, upon not less than thirty (30) days prior written notice to the Authority, and may cease paying to the Authority any applicable recurring fees for such use, as of the date of actual removal of the facilities and complete restoration of the Public ROW. In no event shall a Provider be entitled to a refund of fees paid prior to removal of its Communications Facilities, Poles or Towers."*] [NOTE

THAT PRO RATA REFUNDS ARE AN OPTION JURISDICTIONS MAY WANT TO CONSIDER.]

**Section 2.2 Permit Applications** [THIS SECTION SHOULD STATE THE PERMIT APPLICATION REQUIREMENTS AND OTHER RELATED REQUIREMENTS.]

- a. Permit Required. State that a permit is required under this Chapter. [For example: *“Unless expressly authorized in this Chapter or in writing by the Authority, no Person may construct, install or maintain in the Public ROW any Communications Facilities, Poles built for the sole or primary purpose of supporting Communications Facilities, or Towers, including the installation or Collocation of Communications Facilities on existing Poles, Towers, Support Structures or other structures within the Public ROW, without first receiving a Permit. Notwithstanding the foregoing, in the event of an Emergency, a Provider or its duly authorized representative may work in the Public ROW prior to obtaining a Permit, provided that the Provider shall attempt to contact the Authority prior to commencing the work and shall apply for a Permit as soon as reasonably possible, but not later than \_\_\_ [days/hours], after commencing the Emergency work. For purposes of this subsection, an “Emergency” means a circumstance in which immediate repair to damaged or malfunctioning facilities is necessary to restore lost service or prevent immediate harm to persons or property.”*]
- b. Permit Application Requirements. [For example: *“The Application shall be made by the Provider or its duly authorized representative and shall contain the following:*
  - (i) *The Applicant’s name, address, telephone number, and e-mail address, including emergency contact information for the Applicant.*
  - (ii) *The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the Applicant with respect to the filing of the Application.*
  - (iii) *A description of the proposed work and the purposes and intent of the proposed facility sufficient to demonstrate compliance with the provisions of this Chapter. The Applicant shall state whether the Applicant believes the proposed work is subject to Administrative Review or Discretionary Review and if the Permit is an Eligible Facilities Request. [CONSIDER ADDING BOXES TO CHECK ON THE PERMIT APPLICATION.]*
  - (iv) *If applicable, a copy of the authorization for use of the property from the Pole, Tower or Support Structure owner on or in which the Communications Facility will be placed or attached.*
  - (v) *Detailed construction drawings regarding the proposed facility. [ADD ANY CROSS-REFERENCES TO OTHER EXISTING CODE PROVISIONS THAT PROVIDE SPECIFIC REQUIREMENTS FOR DRAWINGS]*
  - (vi) *To the extent the proposed facility involves Collocation on a Pole, Tower or Support Structure, a structural report performed by a duly licensed engineer evidencing that the Pole, Tower or Support Structure will structurally support the Collocation (or that the Pole, Tower or Support*

*Structure will be modified to meet structural requirements) in accordance with Applicable Codes.*

- (vii) *For any new aboveground facilities, accurate visual depictions or representations, if not included in the construction drawings.”]*
  - (viii) [ADD ANY OTHER SUBMISSION REQUIREMENTS, SUCH AS TRAFFIC CONTROL PLANS.]
- c. Proprietary or Confidential Information in Application. State how the Authority will handle proprietary/confidential information and the Applicant's requirement to mark information as such. [For example: “Applications are public records that may be made publicly available pursuant to [INSERT STATE LAW AND/OR LOCAL CODE/POLICY]. Notwithstanding the foregoing, Applicant may designate portions of its Application materials that it reasonably believes contain proprietary or confidential information as “proprietary” or “confidential” by clearly marking each portion of such materials accordingly, and the Authority shall treat the information as proprietary and confidential, subject to [INSERT STATE LAW AND/OR LOCAL CODE/POLICY] and the Authority's determination that the Applicant's request for confidential or proprietary treatment of Application materials is reasonable. The Authority shall not be required to incur any costs to protect the Application materials from disclosure, other than the Authority's routine procedures for complying with [INSERT STATE LAW AND/OR LOCAL CODE/POLICY].”] [THIS LANGUAGE SHOULD BE ADJUSTED TO COMPLY WITH APPLICABLE PUBLIC RECORDS/FREEDOM OF INFORMATION LAWS.]
- d. Ordinary Maintenance and Repair. Describe the requirements for performing Ordinary Maintenance and Repair. [For example: “A Permit shall not be required for Ordinary Maintenance and Repair. The Provider or other Person performing the Ordinary Maintenance and Repair shall obtain any other permits required by applicable Laws and shall notify the Authority in writing at least \_\_\_ [days/hours before/after] performing the Ordinary Maintenance and Repair.”] [AS NOTED ABOVE, A JURISDICTION MAY CHOOSE NOT TO ALLOW ORDINARY MAINTENANCE AND REPAIR WITHOUT A PERMIT (SUBJECT TO APPLICABLE LAWS), IN WHICH CASE THIS PROVISION SHOULD BE DELETED ALONG WITH THE DEFINITION OF THAT TERM.]
- e. Material Changes. State whether, and under what circumstances, a material change to an Application will impact the review process and/or require payment of additional permit fees. [For example: “The Authority may require payment of an additional Permit application fee in the event the Authority determines, in its sole discretion, that material changes to an Application after submission amount to a new Application and will materially increase the time and/or costs of the Permit review process.” IF A JURISDICTION WILL INCLUDE SHOT CLOCKS IN SECTION 2.3.b.(ii), CONSIDER ADDING: “Unless otherwise agreed to in writing by the Authority, any material changes to an Application, as determined by the Authority in its sole discretion, shall be considered a new application for purposes of the time limits set forth in Section 2.3.b.(ii), unless otherwise provided by applicable Laws.”]

- f. Application Fees and Bonds. State when Application fees must be paid and other financial obligations such as bonds. [For example: *“Unless otherwise provided by applicable Laws, all Applications pursuant to this Chapter shall be accompanied by the Fees required under Section 2.1.b.”*] [INSERT CROSS REFERENCE TO EXISTING BOND REQUIREMENT OR ADD REQUIREMENT HERE, FOR EXAMPLE: *“Unless otherwise provided in a franchise agreement or agreed to in writing by the Authority, a performance bond or other form of surety acceptable to the Authority equal to at least one hundred percent (100%) of the estimated cost of the work within the Public ROW shall be provided before the Applicant commences work.”*]
- g. Effect of Permit. [For example: *“A Permit from the Authority authorizes an Applicant to undertake only the activities in the Public ROW specified in the Application and Permit, and in accordance with this Chapter and any general conditions included in the Permit. A Permit does not authorize attachment to or use of existing Poles, Towers, Support Structures or other structures in the Public ROW; a Permittee or Provider must obtain all necessary approvals from the owner of any Pole, Tower, Support Structure or other structure prior to any attachment or use. A Permit does not create a property right or grant authority to the Applicant to interfere with other existing uses of the Public ROW.”*]
- h. Duration. [For example: *“Any Permit for construction issued under this Article II shall be valid for a period of \_\_\_ days/weeks/months after issuance.”*] [CONSIDER PROVIDING FOR EXTENSION OF TIME, FOR EXAMPLE: *“Any Permit for construction issued under this Article II shall be valid for a period of \_\_\_ [days/weeks/months] after issuance, provided that the \_\_\_ [day/week/month] period [may/shall] be extended for up to an additional \_\_\_ [days/weeks/months] upon written request of the Applicant (made prior to the end of the initial \_\_\_ [day/week/month] period) if the failure to complete construction is as a result of circumstances beyond the reasonable control of the Applicant.”*]
- i. [CONSIDER ALSO INCLUDING A BATCH PERMIT PROVISION TO ALLOW MULTIPLE APPLICATIONS TO BE SUBMITTED AT ONE TIME. For example: *“An Applicant may simultaneously submit not more than \_\_\_\_\_ (\_\_\_) Applications for Communications Facilities, or may file a single, consolidated Application covering such Communications Facilities, provided that the proposed Communications Facilities are to be deployed on the same type of structure using similar equipment and within an adjacent, related geographic area of the Authority. If the Applicant files a consolidated application, the Applicant shall pay the application fee calculated as though each Communication Facility were a separate Application. [ADJUST THIS IF A DISCOUNT IS GIVEN FOR BATCH APPLICATIONS.]”*] [CONSIDER INCLUDING A MONTHLY OR OTHER TIME-BASED LIMIT ON FILING CONSOLIDATED OR BATCH APPLICATIONS, ESPECIALLY IF THERE IS AN APPLICABLE SHOT CLOCK. ALSO CONSIDER OTHER APPLICABLE LIMITS, SUCH AS DISTANCE, WITH RESPECT TO BATCH WIRELINE APPLICATIONS SO THAT APPLICATIONS ARE REVIEWABLE IN A TIMELY MANNER.]

**Section 2.3 Administrative Review** [INSERT BELOW THOSE TYPES OF DEPLOYMENTS THAT MAY BE APPROVED BY ADMINISTRATIVE REVIEW WITHOUT A PUBLIC HEARING. THESE MUST MEET THE OTHER CRITERIA

ESTABLISHED IN THIS CHAPTER, BUT SO LONG AS THEY DO THERE WOULD NOT BE DISCRETION TO DENY THE PERMIT. THIS SECTION OR THE DESIGN CRITERIA SHOULD REFERENCE LAND USE ZONES IF THE JURISDICTION WANTS CERTAIN ZONES (E.G., HISTORIC, RESIDENTIAL) TO HAVE DIFFERENT STANDARDS OF REVIEW. THE PROVISIONS BELOW PROVIDE SAMPLE LANGUAGE BASED ON THE BDAC RECOMMENDATION (WITH MODIFICATIONS). JURISDICTIONS MUST REVIEW APPLICABLE LAWS TO ENSURE THAT THIS SECTION IS CONSISTENT WITH STATE OR FEDERAL REQUIREMENTS, AND SHOULD ADJUST THE LANGUAGE TO MEET COMMUNITY NEEDS AND INTERESTS SUBJECT TO APPLICABLE LAWS.]

- a. Permitted Use. Describe uses that will be approved on Administrative Review. [For example: *"The following uses within the Public ROW shall be permitted uses, subject to Administrative Review and issuance of a Permit as set forth in this Section 2.3. All such uses shall be in accordance with all other applicable provisions of this Chapter, including without limitation, those set forth in Section 2.5 below [IF APPLICABLE ADD; and the terms of any Right of Way Agreement/ Franchise Agreement/License].*
- (i) *Collocation of a Small Wireless Facility that does not exceed the maximum height set forth in Subsection 2.3.c or a Collocation that qualifies as an Eligible Facilities Request. [COLLOCATION IS LIMITED TO PLACEMENT OF SMALL WIRELESS FACILITIES ON A TOWER, OR ON A SUPPORT STRUCTURE OR POLE THAT HOLDS AT LEAST ONE SMALL WIRELESS FACILITY AT THE TIME OF THE APPLICATION. CONSIDER WHETHER THERE ARE INSTANCES IN WHICH THE INITIAL PLACEMENT OF A SMALL WIRELESS FACILITY ON A SUPPORT STRUCTURE OR POLE SHOULD BE PERMITTED ON ADMINISTRATIVE REVIEW AND, IF SO, ADD APPROPRIATE LANGUAGE TO THIS SECTION. NOTE THAT THE BDAC DEFINITION OF "COLLOCATION" INCLUDES REPLACEMENT OF EXISTING COMMUNICATIONS FACILITIES SUCH AS SWAPPING OUT ANTENNAS. THE PROPOSED DEFINITION IN THIS MODEL DOES NOT INCLUDE REPLACEMENT, SO JURISDICTIONS MAY WANT TO CONSIDER INCLUDING AS A PERMITTED USE THE REPLACING OF FACILITIES THAT ARE THE SAME TYPE/SIZE/AESTHETICS/ETC.]*
  - (ii) *Modification of a Pole, Tower or Support Structure or Replacement of a Pole for Collocation of a Communications Facility where the modification or Replacement qualifies as an Eligible Facilities Request.*
  - (iii) *Construction of a new Pole or a monopole Tower (but no other type of Tower) to be used for a Small Wireless Facility that does not exceed the maximum height set forth in Subsection 2.3.c, provided that there are existing poles of similar height within \_\_\_ feet of either side of the proposed new Pole or monopole Tower. [THIS IS A MODIFICATION OF THE BDAC MODEL AND HAS BEEN LEFT FOR CONSIDERATION; HOWEVER, NEW POLES/TOWERS MAY NOT BE APPROPRIATE IN SOME ZONES OR UNDERGROUNDING DISTRICTS WITH ADMINISTRATIVE REVIEW*

ONLY. JURISDICTIONS SHOULD CONSIDER CHANGES TO THIS SECTION TO REFLECT LOCAL NEEDS AND INTERESTS.]

- (iv) *Construction of a Communications Facility, other than those set forth in subsections (i), (ii) or (iii) in this Section 2.3.a, involving the installation of coaxial, fiber-optic or other cabling, that is installed underground or aboveground between two or more existing Poles or an existing Pole and an existing Tower and/or existing Support Structure, and related equipment and appurtenances.* [CONSIDER ADDRESSING THE SIZE AND LOCATION OF "RELATED EQUIPMENT AND APPURTENANCES" IF NOT ADDRESSED IN THE DESIGN STANDARDS.]]

b. Application Review. [INSERT APPLICATION REVIEW REQUIREMENTS, INCLUDING THE STANDARD FOR ADMINISTRATIVE APPROVAL OF APPLICATIONS THE COMPLY WITH THIS SECTION.] For example:

- (i) *"The Authority shall review the Application and, if the Application conforms with applicable provisions of Section 2.2 and this Section, the Authority shall issue the Permit, subject to the standard permit requirements published by the Authority."*
- (ii) [THE FOLLOWING OPTION IS FROM THE BDAC MODEL. NOTE THAT THESE TIMELINES MAY NOT BE REQUIRED BY APPLICABLE LAW. IF A JURISDICTION OPTS TO INCLUDE TIMELINES FOR APPROVING PERMITS, THE TIMELINES SHOULD BE MADE CONSISTENT WITH APPLICABLE STATE AND FEDERAL TIMELINES.] *"Except as otherwise provided by applicable Laws, the Authority shall:*
  - (A) *Within \_\_\_ days of receiving an Application, notify the Applicant if the Application is incomplete, and identify the missing information. The Applicant may resubmit the completed Application within \_\_\_ days without additional charge, in which case the Authority shall have \_\_\_ days from receipt of the resubmitted Application to verify the Application is complete, notify the Applicant that the Application remains incomplete or, in the Authority's sole discretion, deny the Application; and*
  - (B) *Make its final decision to approve or deny the Application within \_\_\_ days for a collocation, and \_\_\_ days for any new structure, after the Application is complete (or deemed complete in the event the Authority does not notify the Applicant that the Application or resubmitted Application is incomplete).*
- (iii) *The Authority shall advise the Applicant in writing of its final decision."*
- (iv) [CONSIDER INCLUDING AUTHORITY FOR APPROPRIATE STAFF TO WAIVE MINOR VARIANCES FROM THE REQUIREMENTS OF THIS CHAPTER AND APPROVE APPLICATIONS BY ADMINISTRATIVE REVIEW RATHER THAN DISCRETIONARY REVIEW.]

- c. Maximum Height of Permitted Use. Establish height limits on permitted uses described in subsection 2.3.a. [For example: “*Small Wireless Facilities, and new, modified or Replacement Poles, Towers and Support Structures in the Public Right of Way may be approved through Administrative Review as provided in Section 2.3.a only if the following requirements are met:*”
- (i) *Each new, modified or Replacement Pole, Tower or Support Structure installed in the Public ROW shall not exceed \_\_\_\_.* [INSERT HEIGHT LIMITS OR REFERENCE EXISTING LIMITS ON POLE HEIGHTS IN THE ROW. CONSIDER WHETHER THE LIMIT SHOULD BE THE SAME IN ALL ZONES; WHETHER THE LIMIT SHOULD BE RELATIVE TO EXISTING POLES OR BASED ON HEIGHT FROM THE GROUND (OR THE LESSER/GREATER OF BOTH). NOTE THAT THIS LIMIT WILL APPLY TO POLES THAT HOLD WIRELINE AND WIRELESS FACILITIES.]
  - (ii) *“New Small Wireless Facilities in the Public ROW shall not exceed \_\_\_\_.”* [INSERT HEIGHT LIMITS FOR POLES/TOWERS/SUPPORT STRUCTURES, INCLUDING ATTACHED WIRELESS FACILITIES, IF NOT ADDRESSED IN SUBSECTION (i) ABOVE. CONSIDER WHETHER THE LIMIT SHOULD BE THE SAME IN ALL ZONES; WHETHER THE LIMIT SHOULD BE RELATIVE TO EXISTING POLES OR BASED ON HEIGHT FROM THE GROUND (OR THE LESSER/GREATER OF BOTH). ANOTHER OPTION, RECOGNIZING THAT STANDARD STREET LIGHTS CAN BE FITTED WITH A CANISTER THAT WILL INCREASE THE HEIGHT OF THE LIGHT POLE, IS WHETHER TO PERMIT A HEIGHT COMPARABLE TO LIGHT POLES WITHIN A CERTAIN DISTANCE, PLUS AN ADDITIONAL NUMBER OF FEET (E.G. 5 OR 8 FEET).]
- d. Design Standards. Establish the design standards a deployment must meet to be considered a permitted use as described in subsection 2.3.a. [For example: “*All aboveground Communications Facilities, Poles built for the sole or primary purpose of supporting Communications Facilities, or Towers in the Public ROW may be approved through Administrative Review to the extent provided in Section 2.3.a only if the following design guidelines are met:*” [ESTABLISH OBJECTIVE DESIGN STANDARDS WITH WHICH AN APPLICANT CAN (AND MUST) DEMONSTRATE COMPLIANCE IN THE APPLICATION TO QUALIFY FOR ADMINISTRATIVE REVIEW AND APPROVAL. THE FOLLOWING IS A LIST OF ISSUES TO CONSIDER ADDRESSING IN THE STANDARDS.]
- (i) Height, size, shape, color and related requirements and/or limits for poles, towers, support structures, antennas and ground-mounted equipment.
  - (ii) Structure design/style (consider new/replacement use cases).
  - (iii) Limits on number, location or styles of poles, support structures and towers that may be installed or used.
  - (iv) Aesthetic approach for different types of facilities.



- (v) Construction approach per facility, including powering and metering.
- (vi) Structural integrity/remediation approach per facility.
- (vii) Electrical integrity/remediation approach per facility.
- (viii) Set-backs for poles, towers, support structures, antennas and ground-mounted equipment.
- (ix) Limits on use of ground-mounted equipment for wireless facilities (e.g., may be used only to house equipment and other supplies in support of the operation of the wireless facility or required to be placed in an underground vault).
- (x) Lighting, marking and noise requirements and/or limits.
- (xi) Fencing/landscaping/screening/signage requirements and/or limits.
- (xii) Collocation analysis.
- (xiii) Alternative site analysis.
- (xiv) Use of decorative poles.
- (xv) [CONSIDER WHETHER ANY OF THESE REQUIREMENTS SHOULD BE DIFFERENT IN DIFFERENT ZONES, HISTORIC AREAS, ENVIRONMENTALLY SENSITIVE AREAS, ETC.]

**Section 2.4 Discretionary Review and Approval.**

This Section should describe when discretionary review applies. [For example: “*All other uses within the Public ROW not expressly set forth or referenced in Section 2.3.a shall require compliance with, and issuance of, a permit under [CITE TO EXISTING REQUIREMENTS OF THE CITY CODE/CHARTER THAT REQUIRE DISCRETIONARY REVIEW].*”] [DEPENDING ON LOCAL CODES AND PREFERENCES, THIS MAY REQUIRE A PERMIT UNDER THIS SECTION (TO AUTHORIZE CONSTRUCTION IN THE ROW) AS WELL AS A LAND USE/ZONING APPROVAL, IN WHICH CASE A DISTINCTION SHOULD BE MADE IN THIS SECTION BETWEEN THE TWO PERMITS AND BOTH SHOULD CLEARLY BE REQUIRED.]

**Section 2.5 General Public ROW Installation Requirements.**

- a. General Work Requirements. [INSERT GENERAL WORK REQUIREMENTS THE PERMITTEE MUST FOLLOW OR REFERENCE EXISTING CODE REQUIREMENTS THAT A PERMITTEE MUST FOLLOW. NOTE THAT THIS IS DIFFERENT FROM THE ROW REQUIREMENTS IN SECTION 2.1, WHICH APPLY TO THE OWNER OF THE FACILITIES AND APPLY THROUGHOUT THE TERM OF THE FRANCHISE/AGREEMENT/LICENSE OR OCCUPANCY OF THE ROW, WHEREAS THIS SECTION APPLIES TO THE WORK IN THE ROW, WHICH MAY BE PERFORMED BY A CONTRACTOR ON BEHALF OF A PROVIDER. BELOW IS A LIST OF ISSUES TO CONSIDER INCLUDING IN THIS SECTION.]

- (i) General safety and compliance with laws. [For example: *“The Permittee shall employ due care during the installation, maintenance or any other work in the ROW, and shall comply with all safety and Public ROW-protection requirements of applicable Laws, Applicable Codes, and any generally applicable Authority guidelines, standards and practices, and any additional commonly accepted safety and Public ROW-protection standards, methods and devices (to the extent not inconsistent with applicable Laws).”*]
  - (ii) Traffic control. [For example: *“Unless otherwise specified in the Permit, the Permittee shall erect a barrier around the perimeter of any excavation and provide appropriate traffic control devices, signs and lights to protect, warn and guide the public (vehicular and pedestrian) through the work zone. The manner and use of these devices shall be described within a traffic control plan in accordance with the Uniform Manual of Traffic Control Devices. The Permittee shall maintain all barriers and other traffic control and safety devices related to an open excavation until the excavation is restored to a safe condition or as otherwise directed by the Authority.”*]
  - (iii) Interference. [For example: *“The Permittee shall not interfere with any existing facilities or structures in the Public ROW, and shall locate its lines and equipment in such a manner as not to interfere with the usual traffic patterns (vehicular or pedestrian) or with the rights or reasonable convenience of owners of property that abuts any Public ROW.”*]
  - (iv) Utility Locates. [For example: *“Before beginning any excavation in the Public ROW, the Permittee shall comply with [INSERT REFERENCE TO STATE OR LOCAL LAW ON UTILITY LOCATES OR “CALL BEFORE YOU DIG”].”*]
- b. Compliance with Permit.
- (ii) State that the Permittee must follow permit requirements. [For example: *“All construction practices and activities shall be in accordance with the Permit and approved final plans and specifications. The Authority and its representatives shall be provided access to the work site and such further information as they may require to ensure compliance with such requirements. All work that does not comply with the Permit, the approved plans and specifications for the work, or the requirements of this Chapter, shall be removed at the sole expense of the Permittee. The Authority may stop work in order to assure compliance with the provision of this Chapter.”*]
  - (i) Address any needed additional permits. [For example: *“In addition to obtaining a Permit for installation of a Communications Facility, Poles built for the sole or primary purpose of supporting Communications Facilities, or Towers in the Public ROW, an Applicant must obtain all other required permits, including but not limited to, [insert other specific local permits].”*]
- c. Mapping Data. Insert required maps and as-builts. [For example: *“The Permittee shall provide to the Authority as-builts, in a format designated by the Authority or otherwise compatible with such format, showing the location of Communications*

*Facilities, Poles, Support Structures and Towers upon completion of the permitted work.”]*

- d. [CONSIDER ANY OTHER CONSTRUCTION-RELATED ISSUES TO INCLUDE.]

**Section 2.6 Attachment to and Replacement of Decorative Poles.** [CONSIDER ADDRESSING ATTACHMENTS TO DECORATIVE POLES. THE EXAMPLE LANGUAGE BELOW IS A MODIFIED VERSION OF THE BDAC RECOMMENDATION. NOTE THAT, IF CONSISTENT WITH APPLICABLE LAWS, A JURISDICTION MAY OPT TO HAVE ALL CHANGES/ATTACHMENTS TO DECORATIVE POLES GO THROUGH A DISCRETIONARY REVIEW PROCESS RATHER THAN ADMINISTRATIVE REVIEW. THE BDAC MODEL LANGUAGE, INCLUDED BELOW, REGARDING WHETHER CHANGES ARE “IN KEEPING WITH THE AESTHETICS OF THE DECORATIVE POLE,” APPEARS TO BE A DISCRETIONARY DECISION AND THUS MAY BE MORE APPROPRIATELY CONSIDERED THROUGH DISCRETIONARY REVIEW.]

[For example: *“Notwithstanding anything to the contrary in this Chapter, an Applicant may not install a Small Wireless Facility on a Decorative Pole, or replace a Decorative Pole with a new Decorative Pole unless the Authority has determined, in its sole discretion, that each of the following conditions has been met:*

- a. *The Application qualifies for issuance of a Permit under Section 2.3.a;*
- b. *The attachment and/or the replacement Pole is in keeping with the aesthetics of the Decorative Pole.”* [CONSIDER REVISING TO MEET LOCAL POLICY GOALS]; and
- c. [INSERT ANY OTHER CRITERIA FOR PERMITTING ATTACHMENTS TO OR REPLACEMENT OF DECORATIVE POLES].

[CONSIDER EXPANDING THE SCOPE OF THIS SECTION TO COVER HISTORIC DISTRICTS AND OTHER SENSITIVE AREAS, THOUGH SEE THE NOTE ABOVE REGARDING THE DISCRETIONARY NATURE OF THIS REVIEW. FOR EXAMPLE: *“Notwithstanding anything to the contrary in this Chapter, an Applicant may not install a Small Wireless Facility on a Decorative Pole, replace a Decorative Pole with a new Decorative Pole, or install new above-ground Communications Facilities in [INSERT NAME OF ZONES/DISTRICTS] unless the Authority has determined, in its sole discretion, that each of the following conditions has been met:*

- a. *The Application qualifies for issuance of a Permit under Section 2.3.a;*
- b. *The attachment and/or the replacement Pole is in keeping with the aesthetics and character of the Decorative Pole and/or the [INSERT NAME OF ZONES/DISTRICTS].”]*

## **Section 2.7 Violation of this Chapter.**

Include appropriate language regarding violations of this Chapter. [For example: *“Violation of any of the provisions of this Chapter shall be a [INSERT APPLICABLE TERM, E.G., simple citation] punishable with a civil penalty of \$\_\_\_\_\_ for each violation. Each day that a violation*

*occurs or is permitted to exist by the Applicant or Provider constitutes a separate offense.”*  
[CONSIDER INSTEAD REFERENCING AN EXISTING GENERALLY APPLICABLE VIOLATION/PENALTY PROVISION OF THE CODE AND NOTICE/OPPORTUNITY TO CURE OR OTHER PROCESS TO CONTEST THE VIOLATION.]

**Section 2.8 Effective Date.**

Insert appropriate language regarding the effective date of the ordinance. [For example: *“This Chapter shall take effect \_\_ ( ) days after its passage, approval and publication.”*]



**CITY COUNCIL AGENDA ITEM**

**SUBJECT:** Chapter 7 Building Code 1st Read

- |  |                                     |   |
|--|-------------------------------------|---|
| <input type="checkbox"/> ORDINANCE       | <input type="checkbox"/> POLICY     | <input type="checkbox"/> STATUS REPORT    |
| <input type="checkbox"/> DISCUSSION ONLY | <input type="checkbox"/> RESOLUTION | <input checked="" type="checkbox"/> OTHER |

**Council Meeting: 02/11/2019**

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**SUBMITTED BY:**

**PURPOSE:**

**HISTORY:**

**FACTS AND ISSUES:**

**OPTIONS:**

**RECOMMENDED ACTION:**



CITY COUNCIL AGENDA ITEM

SUBJECT: TMOD 18-0007 (A) & (B) Chapter 27 (2<sup>nd</sup> Read) and  
Chapter 7 Modifications (1<sup>st</sup> Read)

- ORDINANCE                       POLICY                       STATUS REPORT  
 DISCUSSION ONLY               RESOLUTION               OTHER

Date Submitted: 02/05/19      Work Session:              Council Meeting: 2/11/19

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SUBMITTED BY: Nicole C.E. Dozier, Community Development Department Director

PURPOSE:              (A) This is a clean-up modification to “Short Term Vacation Rental” Section 4.2.58 providing clarity on the Sq. Ft. per occupant requirement.  
  
                                 (B) This is a clean-up modification to the Building Code Section 7 remove of language not applicable to Stonecrest. Note: This item will have to be forwarded to DCA for approval prior to city adoption

RECOMMENDED ACTION: Planning Commission recommended deferral of item (A) and approval of item (B) at the January 3, 2019 meeting. Item (A) was recommended for deferral due to concerns Public ability to review document because it was posted to the website late.

OPTIONS: Defer back to the Planning Commission, Approve; Deny; or make Alternative conditions

ATTACHMENTS:  
#1 Planning Commission Staff Report

**Attachment #1**

**1/3/2019**

**Planning Commission Staff Report**

**TMOD 18-0007 (A) & (B)**

**Chapter 27 (2<sup>nd</sup> Read) and  
Chapter 7 Modifications (1<sup>st</sup> Read)**



## PLANNING COMMISSION STAFF REPORT

**MEETING DATE:** January 3, 2019

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### GENERAL INFORMATION

**Petition Number:** TMOD 18-0007

**Applicant:** Stonecrest Community Development Department

**Project Location:** City-Wide

**Discussion:** This is a modification of Article 27 Short Term Vacation Rental Ordinance and minor modification to Chapter 7 Building Code.



1           **AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA, AMENDING**  
2           **CHAPTER 27, ARTICLE IV TO CLARIFY EXISTING REGULATIONS ON SQUARE**  
3           **FOOTAGE OF SLEEPING AREAS.**

4       **WHEREAS**, the City of Stonecrest is authorized to exercise the power of zoning Ga. Const.  
5           Art. IX, Section II, ¶ IV, Ga. Const. Art. IX, Section II, ¶¶ I and III, Official Code  
6           of Georgia Annotated (O.C.G.A.) § 36-66-1 et seq., the City's Charter, the City's  
7           general police powers, and by other powers and authority provided by federal,  
8           state and local laws applicable hereto; and

9       **WHEREAS**, the City of Stonecrest continues to exercise its zoning powers to provide  
10           comprehensive city planning and ensure a safe, healthy, and aesthetically pleasing  
11           community; and

12       **WHEREAS**, as the City of Stonecrest experiences growth and gains knowledge through the  
13           exercise of these powers, it is necessary to and, amend, and/or remove certain  
14           requirements in the Zoning Ordinance; and

15       **WHEREAS**, the City of Stonecrest recognizes necessity of implementing regulations which  
16           protect the health, safety and welfare of its citizens as well as tourists in the city  
17           who choose alternative accommodations, such as Short Term Vacation Rentals.

18       **WHEREAS**, the Zoning Procedures Law, O.C.G.A. § 36-66-1, *et seq.*, provides statutory  
19           requirements which must be met by a local government to enact zoning  
20           ordinances and make zoning decisions, including, requiring publication of notice  
21           and public hearing prior to the enactment of zoning ordinances;

22       **WHEREAS**, the City of Stonecrest has advertised and held public hearings on \_\_\_\_\_  
23           and \_\_\_\_\_ on the adoption of the amendment to Chapter 27, Article IV:

24       **WHEREAS**, this Ordinance seeks to clarify the existing regulations on Short Term Vacation  
25           Rentals to ensure a safe, healthy, and aesthetically pleasing community for the  
26           citizens and visitors of the City of Stonecrest, Georgia.

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

29       **Section 1:**    **Section 4.2.58 of The Code of the City of Stonecrest, Georgia, is hereby**  
30       **amended to read as follows:**

- 31           A. No individual renting the property shall stay for longer than 30 consecutive days.
- 32           B. The STVR shall not be operated in such a way as to change the residential character of  
33           the neighborhood in which it is located and shall comply with the noise ordinance.
- 34           C. In every dwelling of two (2) or more rooms, every room occupied for sleeping purposes  
35           by one (1) occupant shall contain not less than 70 square feet of floor area, and every  
36           room occupied for sleeping purposes by two (2) occupants shall contain at least one

37           hundred twenty (120) square feet of floor area. Maximum occupancy limits for any  
38           overnight guests must not exceed two guests for every bedroom located in the STVR.

39           D. Every Bedroom shall have a window facing directly and opening to the outdoors.

40           E. Every bedroom shall have access to not less than one water closet and lavatory without  
41           passing through another bedroom. Every bedroom in an STVR shall have access to not  
42           less than one water closet and lavatory located in the same story as the bedroom or an  
43           adjacent story.

44           F. There shall also be provided at least one (1) off-street parking space for each bedroom  
45           used as a part of the STVR.

46           G. No signs or advertising are permitted to identify or advertise the existence of the STVR,  
47           beyond those otherwise allowed for the residential property.

48           H. All STVR units shall be furnished with a telephone that is connected to a landline or  
49           similar type connection, including a voice over internet protocol, in order that 911  
50           dispatch may be able to readily identify the address and/or location from where the call is  
51           made when dialed.

52           I. A diagram depicting two eviction routes shall be posted on or immediately adjacent to  
53           every required egress door.

54           J. No individual renting a STVR shall use the STVR for a special event, party, or temporary  
55           outdoor event. No owner or operator of a STVR shall permit a STVR to be used for a  
56           special event, party, or temporary event.

57           K. It shall be unlawful to establish, operate, or cause to be operated a STVR in the city  
58           within 500 feet of another STVR, bed and breakfast, boarding house, Home stay bed and  
59           breakfast residence, hotel/motel, hotel/motel extended stay, personal care home, or child  
60           caring institution. Measurements for this subsection shall be made in a straight line  
61           without regard to intervening structures or objects, between the closest points on the  
62           property lines of the two uses.

63  
64           **Section 2:**

65           1. It is hereby declared to be the intention of the Mayor and City Council that all sections,  
66           paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their  
67           enactment, believed by the Mayor and City Council to be fully valid, enforceable and  
68           constitutional.

69

70 2. It is hereby declared to be the intention of the Mayor and City Council that, to the  
71 greatest extent allowed by law, each and every section, paragraph, sentence, clause or  
72 phrase of this Ordinance is severable from every other section, paragraph, sentence,  
73 clause or phrase of this Ordinance. It is hereby further declared to be the intention of the  
74 Mayor and City Council that, to the greatest extent allowed by law, no section, paragraph,  
75 sentence, clause or phrase of this Ordinance is mutually dependent upon any other  
76 section, paragraph, sentence, clause or phrase of this Ordinance.

77  
78 3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance  
79 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise  
80 unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is  
81 the express intent of the Mayor and City Council that such invalidity, unconstitutionality,  
82 or unenforceability shall, to the greatest extent allowed by law, not render invalid,  
83 unconstitutional or otherwise unenforceable any of the remaining phrases, clauses,  
84 sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed  
85 by law, all remaining phrases, clauses, sentences, paragraphs and sections of the  
86 Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.  
87

88 4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith  
89 are hereby expressly repealed.  
90

91 5. The within ordinance shall become effective upon its adoption.  
92

93 6. [The provisions of this Ordinance shall become and be made part of The Code of the City  
94 of Stonecrest, Georgia, and the sections of this Ordinance may be renumbered to  
95 accomplish such intention.]

96 **SO ORDAINED AND EFFECTIVE** this the \_\_\_\_ day of \_\_\_\_\_, 2019.

97 Approved:

98  
99  
100 \_\_\_\_\_  
101 Jason Lary, Sr., Mayor

102  
103 As to form:

104  
105 \_\_\_\_\_  
106 City Attorney

107  
108 Attest:

109  
110  
111

STATE OF GEORGIA  
COUNTY OF DEKALB  
CITY OF STONECREST

ORDINANCE 2019-\_\_\_\_\_

112 \_\_\_\_\_  
113 Brenda James, City Clerk

1                   **AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA, AMENDING**  
2                   **CHAPTER 7, TO CLARIFY REGULATIONS CONCERNING BUILDINGS AND**  
3                   **CONSTRUCTION**

4       **WHEREAS**, the City of Stonecrest, Georgia Mayor and City Council are authorized by the  
5       City Charter to regulate and to license the erection and construction of buildings and all other  
6       structures and to adopt all required and permissive international codes as adopted by the State of  
7       Georgia; and

8       **WHEREAS**, the Mayor and City Council are charged with preserving the health, safety and  
9       welfare of the citizens of the City; and

10       **WHEREAS**, the Mayor and City Council deem it necessary to adopt building and construction  
11       regulations, as well as the International Property Maintenance Code, in order to ensure the safety  
12       of buildings in the City.

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

15       **Section 1:**     **Section 7-24(b)(2)(f) of The Code of the City of Stonecrest, Georgia, is hereby**  
16       **amended to read as follows:**

- 17           f. All residential driveways, stops, patios, and walkways shall bear on properly compacted  
18           soil, foundation ledges or be doweled at slab. Maximum residential driveways slopes  
19           shall not exceed 20 percent grade. At the entrance of a garage, the garage floor shall be  
20           elevated two inches above the driveway or a drainage system approved by the director  
21           shall be installed at the entrance to the garage. Residential garages and carports shall  
22           contain not less than 19 feet six inches of actual automobile parking depth. ~~Upon~~  
23           ~~completion of construction of any driveway or garage, the engineer of record shall~~  
24           ~~provide written certification to the director that such driveway and/or garage complies~~  
25           ~~with the requirements of this Code, including the requirements of this section~~  
26

27       **Section 2:**     **Section 7-143 of The Code of the City of Stonecrest, Georgia, is hereby**  
28       **amended to read as follows:**

29       (a) *Required.* No building or structure or portion thereof shall be occupied or a change made in  
30       the type of occupancy or the nature of the use of an existing building or part thereof until  
31       after an appropriate certificate as required by this section has been issued.

32       (b) *Certificate of occupancy.*

- 33           (1) *Issuance.* A certificate of occupancy shall not be issued by the Building Official until  
34           the building, structure and intended use complies with all applicable requirements of the  
35           zoning ordinance, all construction is complete and all required final building, plumbing,  
36           mechanical, gas, electric, fire, health, vegetation protection and site drainage  
37           inspections have been performed and approved.

- 38           (2) *Scope.* The certificate of occupancy certifies that all final inspections have been  
39           completed and the structure has been erected, to the best of the inspector's knowledge,

40 in compliance with applicable Code requirements at the time of the issuance of the  
41 certificate. However, issuance of a certificate of occupancy shall not excuse the builder,  
42 contractor, tenant, or property owner from liability for any violation of the Code or any  
43 other applicable laws. Occupancy shall be limited to the area or portion of a building or  
44 structure defined by the building permit for which the certificate of occupancy is issued.

45 (c) *Temporary certificate of occupancy.*

46 (1) *Scope.* A temporary certificate of occupancy may be issued for non-residential buildings  
47 or portions thereof, before the completion of the entire work covered by the permit, for  
48 a specified period of time when it has been determined by the Building Official or  
49 designee that no outstanding Code violations or deficiencies exist and the building may  
50 be safely occupied for the use and time requested. A request for a temporary certificate  
51 of occupancy shall be made on such form as prescribed by the Building Official.

52 (2) *Issuance.* A temporary certificate of occupancy shall be issued for stated purposes only  
53 when construction has not been fully completed and all final inspections have not been  
54 performed for a set time period as determined by the Building Official.

55 (3) *Revocation.* A temporary certificate of occupancy may be revoked, in writing, at the  
56 option of the Building Official for any and/or all of the following reasons:

- 57 a. Violation of any building, plumbing, mechanical, electrical, fire safety or site  
58 development codes or regulations.
- 59 b. Failure to complete any stage of construction and/or site improvements required by  
60 the Building Official in a timely manner.
- 61 c. Unauthorized occupancy or use of any part or portion of the building or structure  
62 other than the area or portion for which a temporary certificate of occupancy has  
63 been granted.
- 64 d. Incorrect information supplied by the permit holder.
- 65 e. Any other conditions that may affect the health, safety and welfare of persons or  
66 property.

67 (d) *Certificate of completion.* A certificate of completion shall be issued upon satisfactory  
68 completion of a building, structure, and/or plumbing, mechanical, gas or electrical system,  
69 when a certificate of occupancy is not required. The certificate of completion does not grant  
70 authority to occupy a building or structure or change the type of occupancy or nature of use  
71 prior to the issuance of a certificate of occupancy.

72 ~~(e) *Certificate of change of tenant.*~~

73 ~~— (1) *Scope.* A certificate of change of tenant shall be required whenever there is a change~~  
74 ~~of tenant occupancy in any non-residential building, structure or use and no construction,~~  
75 ~~alterations, improvements or repairs to the building, structure, plumbing, mechanical, gas, or~~  
76 ~~electrical systems have been or are to be made. The new tenant or building owner shall be~~  
77 ~~required to submit current as-built floor and fixture plans for review and complete a~~  
78 ~~repair/improvement declaration. Upon approval and payment of a change of tenant fee and~~

79 ~~satisfactory inspection to determine compliance with the submitted and approved floor and~~  
80 ~~fixture plan, repair/improvement declaration, and applicable sections of this Chapter, a~~  
81 ~~certificate of change of tenant shall be issued.~~

82 ~~(2) *Permits required.* If the change of tenant involves any construction, alterations,~~  
83 ~~improvements or repairs to the building, plumbing, mechanical, gas or electrical systems, all~~  
84 ~~necessary permits required by this chapter shall be obtained by licensed qualified contractors~~  
85 ~~and all necessary inspections shall be performed by the building official before a change of~~  
86 ~~tenant, or if required, a new certificate of occupancy is issued.~~

87 (e) *Contents of certificates.* Certificates shall contain the following:

88 (1) The building permit number (or in the case of a certificate of completion, the  
89 appropriate trade permit number).

90 (2) The address of the structure.

91 (3) The name and address of the owner.

92 (4) A description of that portion of the structure for which the certificate is issued.

93 (5) A statement that the described portion of the structure has been inspected for  
94 compliance with the requirements of this Chapter.

95 (6) The name of the Building Official.

96 (7) The edition of the code under which the permit was issued.

97 (8) If non-residential, the use and occupancy, in accordance with the provisions of chapter  
98 3 of the International Building Code.

99 (9) If non-residential, the type of construction as defined in chapter 6 of the International  
100 Building Code.

101 (10) If non-residential, the design occupant load.

102 (11) If an automatic sprinkler is provided, whether the sprinkler system is required.

103 (12) Any special stipulations and conditions of the building permit.

104 (f) *Revocation of certificates.* The building official or designee may revoke certificates of  
105 occupancy, certificates of completion, and certificates of change of tenant issued under  
106 provisions of this Chapter, where it is shown that there have been either one or more of the  
107 following:

108 (1) Changes or alterations in construction, type of permitted use or occupancy  
109 without written approval by the Building Official or designee.

110 (2) Changes or violations of the conditions of the certificate without written approval  
111 by the Building Official or designee.

112 (3) Alterations, additions, or improvements to the building, structure, or systems  
113 without permits and inspections required by this Chapter.

114 (4) Violation of any zoning, building, plumbing, mechanical, electrical, fire safety or  
115 site development codes or regulations.

- 116 (5) Any condition that may affect the building, structure or service system which, in  
117 the opinion of the director, renders the building, structure or service system  
118 unsafe, dangerous or uninhabitable.
- 119 (6) After a certificate has been revoked, a valid certificate shall not be issued until all  
120 violations, changes, alterations, additions or improvements meet all requirements  
121 of this Chapter as determined by the Building Official.
- 122 (g) *Posting Floor Loads.*
- 123 (1) *Occupancy.* An existing or new building shall not be occupied for any purpose  
124 which will cause the floors thereof to be loaded beyond their safe capacity. The  
125 Building Official may permit occupancy of a building for mercantile, commercial  
126 or industrial purposes, by a specific business, when he is satisfied that such  
127 capacity will not thereby be exceeded.
- 128 (2) *Storage and Factory-industrial occupancies.* It shall be the responsibility of the  
129 owner, agent, proprietor or occupant of Group S and Group F occupancies, or any  
130 occupancy where excessive floor loading is likely to occur, to employ a  
131 competent architect or engineer in computing the safe load capacity. All such  
132 computations shall be accompanied by a stamped and signed affidavit from the  
133 architect or engineer stating the safe, allowable floor load on each floor in pounds  
134 per square foot uniformly distributed. The computations and affidavit shall be  
135 filed as a permanent record of the building department.
- 136 (3) *Signs required.* In every building or part of a building used for storage, industrial,  
137 or hazardous purposes, the safe floor loads, as reviewed by the Building Official  
138 on the plan, shall be marked on plates of approved design which shall be supplied  
139 and securely affixed by the owner of the building in a conspicuous place in each  
140 story to which they relate. Such plates shall not be removed or defaced, and if  
141 lost, removed or defaced, shall be replaced by the owner of the building.

143 **Section 3:** Section 7-170 of The Code of the City of Stonecrest, Georgia, is hereby  
144 amended to read as follows:

145 **Sec. 7-170. - Construction or work; approval and accessibility.**

- 146 (a) *Generally.* Construction or work for which a permit is required shall be subject to inspection  
147 by the Building Official and such construction or work shall remain accessible and exposed  
148 for inspection purposes until approved. Approval as a result of an inspection shall not be  
149 construed to be an approval of a violation of the provisions of this Chapter or of other  
150 applicable provisions of the Code. Inspections presuming to give authority to violate or  
151 cancel the provisions of this Chapter or of other provisions of the Code shall not be valid. It  
152 shall be the duty of the permit applicant to cause the work to remain accessible and exposed



- 153 for inspection purposes. Neither the Building Official nor the city shall be liable for any  
154 expense entailed in the removal or replacement of any material required to allow inspection.
- 155 (b) *Preliminary inspection.* Before issuing a permit, the Building Official is authorized to  
156 examine, or cause to be examined, buildings, structures, systems and sites for which an  
157 application has been filed.
- 158 (c) *Required inspections.* The Building Official, upon notification, shall make the inspections  
159 set forth as follows:
- 160 (1) *Building.*
- 161 a. *Foundation and slab inspection.* To be made after trenches are excavated, forms are  
162 erected, and reinforcement is installed but before concrete is put in place. The  
163 appropriate silt and erosion control measures must be in place and functional.
- 164 b. *Damproofing inspection.* To be made prior to backfill of crawl space or basement  
165 foundation walls.
- 166 c. *Pre-cladding/sheathing inspection.* To be made after the roof, wall bracing, are  
167 installed and prior to placement of exterior cladding. Rough inspections on trades  
168 need not be complete for pre-cladding inspection.
- 169 ~~d. *Roof felt and sheathing inspection.* To be performed after felt is installed and prior  
170 to covering exterior wall sheathing with felt paper, house wrap or siding as follows:  
171 For existing homes having the roof replaced, the inspection shall consist of: Valley  
172 flashing consisting of either  
173 — 1. Metal flashing at least 24 inches wide having no less than 12 inches on either  
174 side of the valley;  
175 — 2. Self-sealing flashing shall be installed at least 36 inches wide having no less  
176 than 18 inches on either side of the valley; or  
177 — 3. Roll roofing shall be installed at least 36 inches wide having no less than 18  
178 inches on either side of the valley~~
- 179 d. *Frame (rough) inspection.* To be made after wiring, piping, chimneys, duct and  
180 vents to be concealed are in place and all fire blocking is in place this inspection  
181 occurs before any insulation or wall coverings are installed.
- 182 e. *Final inspection.* To be made after the building or structure is completed in  
183 compliance with this Code prior to issuance of the certificate of occupancy.
- 184 (2) *Electrical.*
- 185 a. *Underground and slab inspection.* To be made after trenches or ditches are  
186 excavated, forms are erected, conduit or cable are installed, and before any backfill  
187 or concrete is put in place.
- 188 b. *Rough-in inspection.* To be made after the roof, framing, fire blocking, bracing, and  
189 wiring are in place and prior to the installation of insulation and wall and ceiling  
190 membranes.

- 191 c. *Temporary Power Inspection.* Temporary approval for connection to the utility can  
192 be granted prior to completion. The temporary connection is only valid for a period  
193 not to exceed 90 days.
- 194 d. *Final inspection.* To be made after the building or structure is complete, all  
195 required electrical outlets, switches and fixtures are in place and properly connected  
196 or protected, and the building or structure is ready for occupancy.

197  
198 (3) *Plumbing.*

- 199 a. *Underground and slab inspection.* To be made after trenches or ditches are  
200 excavated, forms are erected, piping installed and before any backfill or concrete is  
201 put in place. The appropriate silt and erosion control measures must be in place and  
202 functional.
- 203 b. *Rough-in inspection.* To be made after the roof, framing, fire blocking and bracing  
204 are in place and all water, soil, waste and vent piping is complete and prior to the  
205 installation of wall and ceiling membranes.
- 206 c. *Final inspection.* To be made after the building is complete, and all plumbing  
207 fixtures and appliances are in place and properly connected, and the structure is  
208 ready for occupancy.
- 209 d. *Testing.* Plumbing work and systems shall be tested as required in section 312 of  
210 the International Plumbing Code. Tests shall be made by the permit holder and  
211 observed by the Building Official.

212 (4) *Mechanical.*

- 213 a. *Underground and slab inspection.* To be made after trenches or ditches are  
214 excavated, forms are erected, underground duct and fuel piping is installed and  
215 before any backfill and concrete is put in place.
- 216 b. *Rough-in inspection.* To be made after the roof, framing, fire blocking and bracing  
217 are in place and all duct and fuel piping to be concealed are complete and prior to  
218 the installation of wall and ceiling membranes.
- 219 c. No mechanical equipment or ductwork is allowed to be installed in any building  
220 that is not adequately sealed from the weather. Any ductwork or equipment  
221 contaminated by stormwater must be replaced to prevent a potential mold issue or  
222 health hazard, as recommended by the DCA Mold Task Force.
- 223 d. *Final inspection.* To be made after the building is complete, the mechanical system  
224 and appliances are in place and properly connected and the structure is ready for  
225 occupancy.

226 (5) *Gas.*

- 227 a. *Rough-in inspection.* To be made after all piping authorized by the permit has been  
228 installed and before any such piping has been covered and concealed or any  
229 fixtures or appliances have been connected.

- 230           b. *Final piping inspection.* To be made after all piping authorized by the permit has  
231           been installed, after all portions which are to be covered or concealed by wall and  
232           ceiling membranes, plastering, stone or brickwork have been so concealed, and  
233           before any fixtures or gas appliances have been connected. Log lighters shall be  
234           permitted separately and inspected.
- 235           c. *Testing.* This inspection shall include a gas pressure test.
- 236           d. *Final inspection.* To be made on all new gas work authorized by the permit and  
237           such portions of existing systems as may be affected by the new work or any  
238           changes, to ensure compliance with the requirements of this chapter and to assure  
239           that the installation and construction of the gas system is in accordance with  
240           reviewed plans.
- 241       (6) *Energy.*
- 242           a. *Insulation inspection.* To be made after all rough inspections are complete and  
243           approved and before exterior wall insulation is concealed by wall board to check  
244           installation of the exterior insulation envelope and to inspect that all holes and  
245           cracks through the structure envelope have been sealed in an appropriate manner as  
246           to restrict air passage.
- 247           b. *Final inspection.* To be made after the building is completed and ready for  
248           occupancy. To verify installation and R-value of ceiling and floor insulation. To  
249           verify correct SEER ratings on appliances. Verification of compliance with all state  
250           amendments for the energy code in regards to sealing and compliance certificates  
251           where applicable and properly posted.
- 252       (d) *Residential floodplain inspections.* For construction permitted in areas prone to flooding as  
253           established by table R301.2(1) of the International Residential Building Code, upon  
254           placement of the lowest floor, including basement, and prior to further vertical construction,  
255           the building official shall require submission of a certification of the elevation of the lowest  
256           floor, including basement, prepared by a registered professional engineer or land surveyor,  
257           as required in section R327 of the International Residential Building Code.
- 258       (e) *Fire-resistant penetrations.* Protection of joints and penetrations in fire-resistance-rated  
259           assemblies shall not be concealed from view until inspected and approved.
- 260       (f) *Other inspections.* In addition to any other inspections, the Building Official is authorized to  
261           make or require other inspections of any construction work to ascertain compliance with the  
262           provisions of this Chapter and other applicable provisions of the code that are enforced by  
263           the city.
- 264       (g) *Residential fire-resistance-rated construction inspections.* Where fire-resistance-rated  
265           construction is required between dwelling units or due to the location on the property, the  
266           Building Official shall require an inspection of such construction after all lathing and/or  
267           wallboard is in place, but before any plaster is applied, or before wallboard joints and  
268           fasteners are taped and finished.

- 269 (h) *Inspection agencies.* The Building Official is authorized to request and accept reports of  
270 approved inspection agencies, provided such agencies satisfy the requirements of this  
271 Chapter.
- 272 (i) *Pre-qualified alternate registered engineer inspections.*
- 273 (1) When it is evident that the city cannot provide an inspection service of construction  
274 covered by this Chapter within two business days of receiving a valid written request  
275 for an inspection, then, in lieu of an inspection by inspections personnel employed by  
276 the city, any person, firm, or corporation engaged in a construction project which  
277 requires an inspection, shall have the option of retaining, at their own expense, a pre-  
278 qualified alternate registered professional engineer who holds a certificate of  
279 registration issued under chapter 15 of title 43 of the Official Code of Georgia  
280 Annotated, and who is not an employee or otherwise affiliated with or financially  
281 interested in such person, firm, or corporation, to provide the required inspection. Pre-  
282 qualified alternate registered professional engineers shall conduct inspections in  
283 accordance with all applicable provisions of this Code and state law, including, but not  
284 limited to, O.C.G.A. § 8-2-26, as amended.
- 285 (2) The city shall provide for the pre-qualification of alternate registered engineers who  
286 may perform inspections pursuant to this section. A pre-qualified alternate registered  
287 engineer inspector who personally makes the inspection, shall hold, in addition to the  
288 certificate registration required under chapter 15 International Code Council/ICC of title  
289 43 of the Official Code of Georgia Annotated, a certification that matches his area of  
290 expertise. Pre-qualified alternate registered engineers may provide inspections in their  
291 scope of expertise providing they hold the aforementioned certifications that match their  
292 expertise. In lieu of personally holding an International Code Council certification, a  
293 registered engineer may employ technicians who hold the required appropriate  
294 International Code Council certifications to actually make the inspections. These  
295 employees shall also be pre-qualified by the city. Inspection reports submitted to the  
296 city shall contain both the certified technician's signature and the signature and seal of  
297 the pre-qualified alternate registered engineer and their dates of certification.
- 298 (3) Pre-qualified alternate registered engineer inspections and reports shall be accepted only  
299 from persons or firms who have been pre-qualified by the Building Official. The  
300 requirements, procedures, application forms and report forms shall be as required by the  
301 Building Official.
- 302 (j) *Inspections requests.* It shall be the duty of the holder of the permit or their duly authorized  
303 agent to notify the building official when work is ready for inspection. It shall be the duty of  
304 the permit holder to provide safe access to and a safe means for inspection of such work for  
305 any inspections that are required by this Chapter.
- 306 (k) *Approval required.* Work shall not be done beyond the point indicated in each successive  
307 inspection without first obtaining the approval of the Building Official. The Building

308 Official, upon notification, shall make the requested inspections and shall either indicate the  
309 portion of the construction that is satisfactory as completed or shall notify the permit holder  
310 or an agent of the permit holder wherein the same fails to comply with this Code. Any  
311 portions that do not comply shall be corrected and such portion shall not be covered or  
312 concealed until authorized by the Building Official.

313 (l) *Re-inspection fee.* Re-inspection fees shall be required in accordance with the fee schedule  
314 as adopted by the city council when work performed is required to be re-inspected due to the  
315 following reasons:

316 (1) The re-inspection is not approved due to a failure to correct a previously noted code  
317 violation on a prior inspection;

318 (2) The job is not ready for inspection when an inspection is requested and performed;

319 (3) The building or structure is not accessible and inspection cannot be performed;

320 (4) Work to be inspected has been covered or concealed and proper inspection cannot be  
321 performed; or

322 (5) Prior issuance of a stop work order requires re-inspection.

323 (m) *Right-of-entry.* Inspections required under the provisions of this Chapter shall be made by  
324 the Building Official or designee. Upon presentation of proper credentials, the Building  
325 Official or designee may enter the premises between 8:00 a.m. and 7:00 p.m. to perform any  
326 duty imposed by this Chapter, provided that the building official or designee has consent to  
327 enter the premises or has obtained and presents an inspection warrant as described in this  
328 Chapter.

329 (n) *Manufacturers and Fabricators.* When deemed necessary by the Building Official, he shall  
330 make, or cause to be made, an inspection of materials or assemblies at the point of  
331 manufacture or fabrication. A record shall be made of every such examination and  
332 inspection and of all violations of the construction codes.

333 (o) *Inspections prior to issuance of certificate of occupancy or completion.* The Building  
334 Official shall inspect, or cause to be inspected, at various intervals all construction or work  
335 for which a permit is required, and a final inspection shall be made of every building,  
336 structure, electrical, gas, mechanical or plumbing system upon completion, prior to issuance  
337 of the certificate of occupancy or completion.

338 (p) *Posting of permit.* Work requiring a permit shall not commence until the permit holder or  
339 his agent posts the permit card in a conspicuous place on the premises. The permit shall be  
340 protected from the weather and located in such position as to permit the Building Official or  
341 representative to conveniently make required entries thereon. This permit card shall be  
342 maintained in such position by the permit holder until the certificate of occupancy or  
343 completion is issued by the Building Official.

344

345 **Section 4:**

- 346 1. It is hereby declared to be the intention of the Mayor and City Council that all sections,  
347 paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their  
348 enactment, believed by the Mayor and City Council to be fully valid, enforceable and  
349 constitutional.
- 350
- 351 2. It is hereby declared to be the intention of the Mayor and City Council that, to the  
352 greatest extent allowed by law, each and every section, paragraph, sentence, clause or  
353 phrase of this Ordinance is severable from every other section, paragraph, sentence,  
354 clause or phrase of this Ordinance. It is hereby further declared to be the intention of the  
355 Mayor and City Council that, to the greatest extent allowed by law, no section, paragraph,  
356 sentence, clause or phrase of this Ordinance is mutually dependent upon any other  
357 section, paragraph, sentence, clause or phrase of this Ordinance.
- 358
- 359 3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance  
360 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise  
361 unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is  
362 the express intent of the Mayor and City Council that such invalidity, unconstitutionality,  
363 or unenforceability shall, to the greatest extent allowed by law, not render invalid,  
364 unconstitutional or otherwise unenforceable any of the remaining phrases, clauses,  
365 sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed  
366 by law, all remaining phrases, clauses, sentences, paragraphs and sections of the  
367 Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.
- 368
- 369 4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith  
370 are hereby expressly repealed.
- 371
- 372 5. The within ordinance shall become effective upon its adoption.
- 373
- 374 6. [The provisions of this Ordinance shall become and be made part of The Code of the City  
375 of Stonecrest, Georgia, and the sections of this Ordinance may be renumbered to  
376 accomplish such intention.]

377 **SO ORDAINED AND EFFECTIVE** this the \_\_\_\_ day of \_\_\_\_\_, 2019.

378 Approved:

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386

\_\_\_\_\_  
Jason Lary, Sr., Mayor

As to form:

STATE OF GEORGIA  
COUNTY OF DEKALB  
CITY OF STONECREST

ORDINANCE 2019-\_\_\_\_\_

387

388

389

390 Attest:

391

392

393

394 \_\_\_\_\_  
Brenda James, City Clerk

\_\_\_\_\_  
City Attorney