



CITY OF STONECREST, GEORGIA

Honorable Mayor Jason Lary, Sr.

Council Member Jimmy Clanton, Jr. – District 1

Council Member Rob Turner- District 2

Council Member Jazzmin Cobble – District 3

Council Member George Turner- District 4

Vacant – District 5

CITY COUNCIL MEETING AGENDA

November 12, 2019

7:00 p.m.

3120 Stonecrest Blvd. Suite 190

Stonecrest, Georgia

- I. CALL TO ORDER:** Mayor Jason Lary
- II. ROLL CALL:** Megan Reid, City Clerk
- III. INVOCATION**
- IV. PLEDGE OF ALLEGIANCE**
- V. AWARDS AND HONORS**
- VI. APPROVAL OF THE COUNCIL AGENDA**
- VII. MINUTES:**
 - a. Approval of the October 28, 2019 City Council Meeting Minutes
- VIII. PRESENTATIONS:**
- IX. PUBLIC COMMENTS**
- X. APPOINTMENTS:**
- XI. PUBLIC HEARINGS:**

XII. NEW BUSINESS:

- a. IGA EHOST
- b. Resolution for GA DNR Grant for Parks and Recreation
- c. MOU for Youth Basketball/Youth Sports at Browns Mill Recreation Center

XIII. OLD BUSINESS:

- a. Floodplain Insurance Ordinance- 2nd Reading

XIV. EXECUTIVE SESSION:

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

XV. CITY MANAGER COMMENTS

XVI. CITY ATTORNEY COMMENTS

XVII. MAYOR AND COUNCIL COMMENTS

XVIII. ADJOURNMENT

Americans with Disabilities Act

The City of Stonecrest does not discriminate on the basis of disability in its programs, services, activities and employment practices.

If you need auxiliary aids and services for effective communication (such as a sign language interpreter, an assistive listening device or print material in digital format) or reasonable modification to programs, services or activities contact the ADA Coordinator, Megan Reid, as soon as possible, preferably 2 days before the activity or event.



CITY COUNCIL AGENDA ITEM

SUBJECT: City Council meeting Minutes 10/28/2019

- | | | |
|--|-------------------------------------|---|
| <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: 11/12/2019

SUBMITTED BY: Megan Reid

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Approval



CITY OF STONECREST, GEORGIA

Honorable Mayor Jason Lary, Sr.

Council Member Jimmy Clanton, Jr. – District 1

Council Member Rob Turner- District 2

Council Member Jazzmin Cobble – District 3

Council Member George Turner- District 4

Vacant – District 5

CITY COUNCIL MEETING MINUTES

October 28, 2019

7:00 p.m.

3120 Stonecrest Blvd. Suite 190

Stonecrest, Georgia

- I. CALL TO ORDER:** Mayor Jason Lary
- II. ROLL CALL:** Council Member Jazzmin Cobble was absent.
- III. INVOCATION:** Invocation was led by Council Member Rob Turner.
- IV. PLEDGE OF ALLEGIANCE**
- V. AWARDS AND HONORS**

Mayor Lary acknowledged and awarded Mera Cardenas of Arabia Mountain for her success and wished her well as she moves to Chicago for her future accomplishments.

Mayor Lary and Council presented a rendering of the City Center formally known as Sam's Club.

VI. APPROVAL OF THE COUNCIL AGENDA:

Motion 1- was made by Council Member George Turner to approve the agenda with the following changes: Remove "1st Reading" from a. RZ-19-0007 and b. RZ-19-0008 under XII. New Business and add the word "Final" to g. for Plat Approval and was seconded by Council Member Rob Turner.

Motion passed unanimously.

VII. MINUTES:

Motion 2- was made by Council Member Rob Turner to approve the Council Meeting Minutes from October 14, 2019 and Council Member Jimmy Clanton gave the second.

Motion passed unanimously.

Motion 3- was made by Council Member Rob Turner to approve the Special Called Meeting Minutes from October 23, 2019 and Council Member Jimmy Clanton gave the second..

Motion passed unanimously.

VIII. PRESENTATIONS:

Presentation was presented under Agenda Item IV.

IX. PUBLIC COMMENTS:

None.

X. APPOINTMENTS:

None.

XI. PUBLIC HEARINGS:

a. RZ-19-0007

Chris Wheeler, Planning and Zoning Director, briefly overviewed the Staff Recommendations along with the Planning Commissions recommendations to approve RZ-19-0007.

Motion 4- was made by Council Member Jazzmin Cobble to open the Public Hearing and seconded by Council Member George Turner.

Motion passed unanimously.

Ms. Michelle Battle spoke in favor of approving the RZ-19-0007.

Public that spoke in Opposition:

Florena Oliver

Motion 5- was made by Council Member Jimmy Clanton to close the Public Hearing and was seconded by Council Member George Turner.

Motion passed unanimously.

There was much discussion by Council Member George Turner and Council Member Jimmy Clanton.

Motion 6- was made by Council Member Jimmy Clanton to approve RZ-19-0007.with conditions listed in the staff report and to adhere to the traffic study to the extent allowable by law and a second was provided by Council Member Rob Turner.

Motion passed unanimously.

Council Member Jazzmin Cobble left at approximately 8:15pm.

b. RZ-19-0008

Chris Wheeler, Planning and Zoning Director, asked for Council to accept the formal withdrawal of application.

Motion 7- was made by Council member George Turner to accept the withdrawal of Application RZ-19-0008 and was seconded by Council Member Rob Turner.

Motion approved unanimously.

c. TMOD-19-003

Stonecrest Overly Map Modifications explained by Chris Wheeler, Planning and Zoning Director.

Motion 8- was made by Council member George Turner to open the Public Hearing for TMOD-19-003 and was seconded by Council Member Jimmy Clanton.

Motion passed unanimously.

Those who spoke in favor include Michelle Battle, Bernard Knight, and Dave Marcus.

Those who spoke in opposition were Dele Lowman-Smith, Renee Cail, and Cheryl Mathis.

Motion 9- was made by Council Member George Turner to close the Public Hearing and was seconded by Council Member Jimmy Clanton.

Motion approved unanimously.

Council Member Jimmy Clanton would like this to go for final vote on November 25, 2019.

d. TMOD-19-005

TMOD-19-005 (Party House Ordinance) explained by Chris Wheeler, Planning and Zoning Director.

Motion 10- was made by Council Member Rob Turner to open the Public Hearing for TMOD-19-005 and was seconded by Council Member George Turner.

Motion passed unanimously.

Those who spoke in favor include Dave Marcus, Cheryl Mathis, Joel Thibodeaux, and Tammy Grimes.

No one spoke in opposition.

Motion 11- was made by Council Member George Turner to close the Public Hearing and was seconded by Council Member Rob Turner.

Motion approved unanimously.

e. TMOD-19-006

TMOD-19-006 (Discount Store Ordinance) explained by Chris Wheeler, Planning and Zoning Director.

Motion 12- was made by Council Member Rob Turner to open the Public Hearing for TMOD-19-005 and was seconded by Council Member George Turner.

Motion passed unanimously.

Those who spoke in favor include Dave Marcus and Dele Lowman-Smith.

Bernard Knight in opposition.

Motion 13- was made by Council Member George Turner to close the Public Hearing and was seconded by Council Member Rob Turner.

Motion approved unanimously.

XII. NEW BUSINESS:

f. Floodplain Insurance Ordinance 1st Reading

g. Final Plat- Parks of Stonecrest Pod D Phase 1

Motion 14- was made by Council Member Jimmy Clanton to approve the Final Plat-Parks of Stonecrest Pod D Phase 1 and a second was provided by Council Member George Turner.

Motion passed unanimously.

XIII. OLD BUSINESS:

XIV. EXECUTIVE SESSION:

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

None.

XV. CITY MANAGER COMMENTS:

No comments.

XVI. CITY ATTORNEY COMMENTS:

No comments

XVII. MAYOR AND COUNCIL COMMENTS:

Council Member Rob Turner- Invited the Public to come to DeKalb Cultural Exchange Fair on November 9 from 9am-1pm at the House of Hope.

Council Member Jimmy Clanton- Monthly Meeting set for 11/2/2019 at the AEI Startup Factory from 10:00am – 12:30pm and the Mayor will be there for an “Ask the Mayor” opportunity.

Council Member George Turner 2020 Census Complete Count Meeting on October 29, 2019 at 6:30pm. This will be there 2nd meeting.

Mayor Jason Lary-

District 5 forum set for October 30 at 6:30pm at the AEI Startup Factory.

Scanner at City Hall has been down and that is why the packet wasn't available online.

XVIII. Public Comments

Dele Lowman-Smith- Asked about the Boards and Committees not being listed on the website. Residents need to be on all committees. Why were Public Comments moved?

Dave Marcus- Spoke about business owners being stakeholders and his stance on them being on committees.

Bernard Knight- Quoted that the City Charter only states that Boards, Commissions and Authority members have to be residents not Committees.

XIX. ADJOURNMENT:

Motion 15- was made by Council Member Jimmy Clanton to adjourn the Council Meeting and a second was provided by Council Member George Turner.

Motion passed unanimously.

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

Mayor Jason Lary

ATTEST:

Megan P. Reid, City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: IGA EHOST

- | | | |
|--|-------------------------------------|---|
| <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: 11/12/2019

SUBMITTED BY: Plez Joyner

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Approval

**INTERGOVERNMENTAL AGREEMENT FOR THE DISTRIBUTION
OF EQUALIZED HOMESTEAD OPTION SALES TAX PROCEEDS**

THIS AGREEMENT for the distribution of Equalized Homestead Option Sales and Use Tax proceeds (the “Agreement”) is made and entered into this _____ day of _____, _____ by and between DeKalb County, a political subdivision of the State of Georgia (hereinafter the “County”), and the City of Atlanta, the City of Avondale Estates, the City of Brookhaven, the City of Chamblee, the City of Clarkston, the City of Decatur, the City of Doraville, the City of Dunwoody, the City of Lithonia, the City of Pine Lake, the City of Stonecrest, the City of Stone Mountain, and the City of Tucker, municipal corporations of the State of Georgia (hereinafter collectively the “Municipalities” and, individually, as the context requires, “Municipality”).

WITNESSETH:

WHEREAS, the parties to this Agreement consist of the County and the Municipalities;

WHEREAS, the County and Municipalities are authorized to enter into this Agreement by Georgia law, specifically Article IX, Section III, Paragraph 1 of the Constitution of the State of Georgia;

WHEREAS, pursuant to O.C.G.A. § 48-8-109.1 *et seq.* (the “Act”), a referendum election was held in DeKalb County, Georgia on November 7, 2017 in which voters approved suspending the one percent Homestead Option Sales and Use Tax (“HOST”) and replacing the tax with a one percent Equalized Homestead Option Sales and Use Tax (“EHOST”), for the purpose of applying one-hundred percent of the proceeds collected from EHOST toward reducing ad valorem property tax millage rates within the County and Municipalities;

WHEREAS, pursuant to the Act, the State Revenue Commissioner of the Georgia Department of Revenue (“Revenue Commissioner”) must disburse EHOST proceeds to the County and Municipalities; first to reduce and eliminate if possible, county ad valorem property tax line items levied uniformly throughout the county on homestead properties; then, any remaining EHOST proceeds must be used to reduce homestead property taxes, at an equal and uniform rate, across both county millage rates levied only in unincorporated portions of the county on homestead properties and municipal millage rates levied in every municipality located either wholly or partially in the county on homestead properties;

WHEREAS, the County and Municipalities, having reviewed the applicable law, have agreed upon a specific method to request the Revenue Commissioner to disburse proceeds collected from EHOST and also agreed on a method to calculate the equalized homestead exemption applicable to county and municipal homestead property tax millage rates;

NOW, THEREFORE, in consideration of the mutual promises and understandings made in this Agreement, and for other good and valuable consideration, the County and the Municipalities consent and agree as follows:

Section 1. Representations and Mutual Covenants

- (A) The County makes the following representations and warranties which may be specifically relied upon by all parties as a basis for entering this Agreement:
- (i) The County is a political subdivision duly created and organized under the Constitution of the State of Georgia; and
 - (ii) The governing authority of the County is duly authorized to execute, deliver and perform this Agreement; and
 - (iii) This Agreement is a valid, binding, and enforceable obligation of the County.
- (B) Each of the Municipalities, on its own behalf, makes the following representations and warranties, which may be specifically relied upon by all parties as a basis for entering this Agreement:
- (i) The Municipality is a municipal corporation duly created and organized under the laws of the State of Georgia; and
 - (ii) The governing authority of the Municipality is duly authorized to execute, deliver and perform this Agreement; and
 - (iii) This Agreement is a valid, binding, and enforceable obligation of the Municipality; and
 - (iv) The Municipality is located in part or entirely within the geographic boundaries of the special tax district created in the County.
- (C) It is the intention of the County and Municipalities to comply in all applicable respects with O.C.G.A. § 48-8-109.1 *et seq.* and all provisions of this Agreement shall be construed in light of the applicable provisions found in O.C.G.A. § 48-8-109.1 *et seq.*
- (D) The County and Municipalities agree to maintain thorough and accurate records concerning their respective receipt and expenditure of EHOST proceeds.

Section 2. Conditions Precedent

The obligations of the County and Municipalities pursuant to this Agreement are conditioned upon the collection of the EHOST tax by the Revenue Commissioner and transferring same to the County and Municipalities in conformity with this Agreement and the applicable provisions of O.C.G.A. § 48-8-109.1 *et seq.*

Section 3. Definitions

- (A) Remaining Proceeds: the amount of EHOST proceeds disbursed by the Revenue Commissioner in the previous year remaining after rolling back and eliminating the millage rates for the County Hospital Fund and General Fund taxes in the current year.
- (B) Gross Homestead Digest: the total assessed value of all qualified homestead property located in DeKalb County.
- (C) Unincorporated Homestead Digest Percentage: the percentage of the Gross Homestead Digest applicable to unincorporated DeKalb County.
- (D) Municipal Homestead Digest Percentage: the percentage of the Gross Homestead Digest applicable to a Municipality.
- (E) Remaining Proceeds Credit: the Remaining Proceeds amount divided by the Gross Homestead Digest value for the current year.

Section 4. Distribution of EHOST Proceeds

- (A) The parties agree, in accordance with O.C.G.A. § 48-8-109.5, that EHOST proceeds collected by the Revenue Commissioner shall be disbursed as follows:
 - (i) One percent of EHOST proceeds shall be paid by the Revenue Commissioner into the general fund of the state treasury in order to defray the costs of administration.
 - (ii) After one percent of EHOST proceeds are subtracted to defray the cost of administration, the Revenue Commissioner shall disburse EHOST proceeds to the County. If in any given year there are Remaining Proceeds, the Revenue Commissioner shall disburse Remaining Proceeds to the County and Municipalities according to subsection (iv) below. If there are no Remaining Proceeds for any given year, the Revenue Commissioner shall disburse all EHOST proceeds to the County only.
 - (iii) In any year in which there are Remaining Proceeds, the County must provide written notification of such proceeds to the Revenue Commissioner and the Municipalities by no later than September 1st of the year. The County's notification must certify the following information:
 - (a) The amount of Remaining Proceeds for the current year.
 - (b) The Gross Homestead Digest value for the current year.
 - (c) The Unincorporated Homestead Digest Percentage and each Municipal Homestead Digest Percentage for the current year.
 - (d) Any Municipality that does not levy a municipal ad valorem property tax.

- (iv) If the Revenue Commissioner receives a notice of Remaining Proceeds from the County, the Revenue Commissioner shall disburse the Remaining Proceeds amount to the County and each Municipality according to the Unincorporated Homestead Digest Percentage and each respective Municipal Homestead Digest Percentage. Except, for any Municipality that does not levy a municipal ad valorem property tax, the Revenue Commissioner shall disburse such Municipality's respective share of the Remaining Proceeds to the County. All other EHOST proceeds for such years shall be disbursed to the County.

Section 5. Use of EHOST Proceeds

EHOST proceeds disbursed to the County and Municipalities shall be utilized as follows:

- (A) First, to roll back, and eliminate if possible, the millage rates for the County general and hospital tax funds.
- (B) Then, if there are Remaining Proceeds, the Remaining Proceeds Credit shall be applied to the millage rates for any county ad valorem property tax line items levied only in the unincorporated portions of the county on homestead properties, commonly referred to as the County Police and Designated Funds; and shall also be applied to the millage rates for any municipal ad valorem property tax line items levied in each individual municipality located wholly or partially in the county on homestead properties. For any Municipality that does not levy a municipal ad valorem property tax, the Remaining Proceeds Credit shall be applied to the millage rates for any county ad valorem property tax line items levied within the boundaries of the Municipality.

Section 6. Effective Date and Term of this Agreement

This Agreement shall commence upon the date of its execution and shall terminate on the date on which EHOST is no longer levied in DeKalb County or fifty (50) years from the date of its execution, whichever is earlier.

Section 7. Entire Agreement

This Agreement, including any attachments or exhibits, constitutes all of the understandings and agreements existing between the County and the Municipalities with respect to the distribution and use of EHOST. Furthermore, this Agreement supersedes all prior agreements, negotiations and communications of whatever type, whether written or oral, between the parties hereto with respect to distribution and use of said EHOST taxes. No representation oral or written not incorporated in this Agreement shall be binding upon the County or the Municipalities.

Section 8. Amendments

This Agreement shall not be amended or modified except by agreement in writing executed by the County and the Municipalities.

Section 9. Severability, Non-Waiver, Applicable Law, and Enforceability

If a court of competent jurisdiction renders any provision of this Agreement (or portion of a provision) to be invalid or otherwise unenforceable, that provision or portion of the provision will be severed and the remainder of this Agreement will continue in full force and effect as if the invalid provision or portion of the provision were not part of this Agreement. No action taken pursuant to this Agreement should be deemed to constitute a waiver of compliance with any representation, warranty, covenant or agreement contained in this Agreement and will not operate or be construed as a waiver of any subsequent breach, whether of a similar or dissimilar nature. This Agreement is governed by the laws of the State of Georgia without regard to conflicts of law principles thereof. Should any provision of this Agreement require judicial interpretation, it is agreed that the arbitrator or court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent prepared the same, it being agreed that the agents of all parties have participated in the preparation hereof.

Section 10. Compliance with Law

During the term of this Agreement, the County and each Municipality shall comply with all State law applicable to the use of EHOST proceeds, specifically O.C.G.A. § 48-8-109.1 *et seq.*

Section 11. Dispute Resolution

Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

- (A) Claims shall be heard by a single arbitrator, unless the claim amount exceeds \$500,000, in which case the dispute shall be heard by a panel of three arbitrators. Where the claim is to be heard by single arbitrator, the arbitrator shall be selected pursuant to the list process provided for in the Commercial Arbitration Rules unless the parties to the arbitration are able to select an arbitrator independently by mutual agreement. The arbitrator shall be a lawyer with at least 10 years of active practice in commercial law and/or local government law. Where the claim is to be heard by a panel of three arbitrators, selection shall occur as follows. Within 15 days after the commencement of arbitration, the city or cities party to the arbitration shall select one person to act as arbitrator and the County shall select one person to act as an arbitrator. The two selected arbitrators shall then select a third arbitrator within ten days of their appointment. If the arbitrators selected by the parties are unable or fail to agree upon the third arbitrator, the third arbitrator shall be selected by the American Arbitration Association. This third arbitrator shall be a former judge in the State or Superior Courts of Georgia or a former federal district judge.

- (B) The arbitration shall be governed by the laws of the State of Georgia.
- (C) The standard provisions of the Commercial Rules shall apply.
- (D) Arbitrators will have the authority to allocate the costs of the arbitration process among the parties but will only have the authority to allocate attorneys' fees if a particular law permits them to do so, specifically including O.C.G.A. § 9-15-14.
- (E) The award of the arbitrators shall be accompanied by a written opinion that includes express findings of fact and conclusions of law.

Section 12. No Consent to Breach

No consent to or waiver of the right to enforce, express or implied, by any party to this Agreement, any breach of any covenant, condition or duty of another party shall be construed as a consent to or waiver of any future right to enforce a breach of the same.

Section 13. Counterparts

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

[The Remainder of This Page is Intentionally Left Blank]

IN WITNESS WHEREOF, the County and the Municipalities acting through their duly authorized agents have caused this Agreement to be signed, sealed and delivered for final execution by the County on the date indicated herein.

DEKALB COUNTY, GEORGIA

MICHAEL L. THURMOND
Chief Executive Officer (SEAL)

ATTEST:

BARBARA SANDERS-NORWOOD, CCC
Clerk to the Board of Commissioners
and Chief Executive Officer

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM AND
LEGAL VALIDITY:**

ZACHARY L. WILLIAMS
Chief Operating Officer

VIVIANE H. ERNSTES
County Attorney

**CITY OF ATLANTA,
GEORGIA**

Attest:

_____(SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM AND
LEGAL VALIDITY:**

City Manager

City Attorney

DRAFT

**CITY OF AVONDALE ESTATES,
GEORGIA**

Attest:

_____ (SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM AND
LEGAL VALIDITY:**

City Manager

City Attorney

DRAFT

CITY OF BROOKHAVEN, GEORGIA

Attest:

_____ (SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

DRAFT

CITY OF CHAMBLEE, GEORGIA

Attest:

_____ (SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

DRAFT

CITY OF CLARKSTON, GEORGIA

Attest:

_____(SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

DRAFT

CITY OF DECATUR, GEORGIA

Attest:

_____ (SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

DRAFT

CITY OF DORAVILLE, GEORGIA

Attest:

_____(SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

DRAFT

CITY OF DUNWOODY, GEORGIA

Attest:

_____(SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

DRAFT

CITY OF LITHONIA, GEORGIA

Attest:

_____ (SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

DRAFT

CITY OF PINE LAKE, GEORGIA

Attest:

_____ (SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

DRAFT

**CITY OF STONE MOUNTAIN,
GEORGIA**

Attest:

_____ (SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

DRAFT

CITY OF STONECREST, GEORGIA

Attest:

_____(SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

May 16, 2018

CITY OF TUCKER, GEORGIA

Attest:

_____ (SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney



CITY COUNCIL AGENDA ITEM

SUBJECT: Resolution for GA DNR Grant for Parks and Recreation

- ORDINANCE POLICY STATUS REPORT
 DISCUSSION ONLY RESOLUTION OTHER

Council Meeting: 11/12/2019

SUBMITTED BY: Sean de Palma

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Approval

1 **RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STONECREST,**
2 **GEORGIA TO SUPPORT THE CITY OF STONECREST DEPARTMENT OF PARKS**
3 **AND RECREATION IN SUBMITTING AN APPLICATION FOR FUNDING FROM**
4 **THE GEORGIA DEPARTMENT OF NATURAL RESOURCES' RECREATIONAL**
5 **TRAILS PROGRAM**
6

7 **WHEREAS**, at the Council meeting of the City of Stonecrest Georgia held on 12th day of
8 November, 2019 a motion was made and duly seconded that City of Stonecrest
9 Department of Parks and Recreation shall submit an application for funding from
10 the Georgia Department of Natural Resources' Recreational Trails Program in
11 order to add a kayak launch apparatus, to renovate the parking area and add
12 informative signage at Everett Park, and

13
14 **WHEREAS**, City of Stonecrest further states that in the event the City of Stonecrest application
15 is recommended for funding by the Department of Natural Resources, the City of
16 Stonecrest certifies and assures that it has the ability and intention to finance 100
17 percent of the total project cost and be reimbursed for 80 percent of eligible costs
18 by the Department of Natural Resources,

19
20 **NOW, THEREFORE, BE IT RESOLVED** by the City of Stonecrest County, Georgia that it
21 shall submit an application for funding from the Georgia Department of Natural
22 Resources' Recreational Trails Program, and that it shall, in the event that the
23 application is recommended for funding, take action to assure that it will finance
24 100 percent of the total project cost and be reimbursed for 80 percent of eligible
25 costs by the Department of Natural Resources.

26 **WHEREAS**, after careful study and investigation, the City Council has determined that it is in
27 the best interest of the inhabitants of the City to partner with the U.S. Census Bureau
28 to support the 2020 Census.

29
30 **Section 1. Authority for Resolution.** This Resolution is adopted pursuant to the
31 provisions of the Constitution and the laws of the State of Georgia.

32 **Section 2. Findings.** City Council is committed to partnering Georgia Department of
33 Natural Resources' Recreational Trails Program in order to add a kayak launch apparatus, to
34 renovate the parking area and add informative signage at Everett Park.
35

36 **Section 3. Severability of Invalid Provision.** If any one or more of the agreements
37 or provisions herein contained shall for any reason whatsoever be held invalid, then such

STATE OF GEORGIA
DEKALB COUNTY
CITY OF STONECREST

RESOLUTION 2019- _____

38 covenants, agreements or provisions shall be null and void and shall be deemed separable from the
39 remaining agreements and provisions and shall in no way affect the validity of any of the other
40 agreements and provisions hereof.

41 **Section 4. Repealing Clause.** All resolutions or parts thereof of City Council in
42 conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded
43 and repealed.

44 **Section 5. Effective Date.** This Resolution shall take effect immediately upon its
45 adoption.

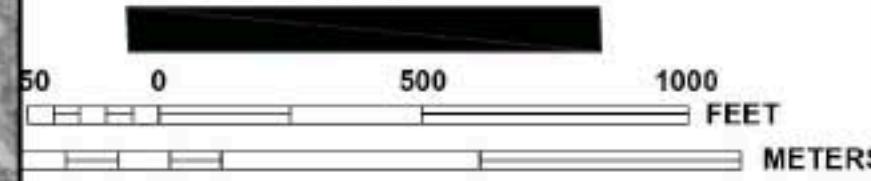
46 **SO RESOLVED AND EFFECTIVE**, this ____ day of _____, 2019.
47
48

Approved:

Jason Lary, Sr., Mayor

Attest:

Megan Reid, City Clerk



NFIP

PANEL 0169J

NATIONAL FLOOD INSURANCE PROGRAM

FIRM
FLOOD INSURANCE RATE MAP

DEKALB COUNTY,
GEORGIA
AND INCORPORATED AREAS

PANEL 169 OF 201

(SEE MAP INDEX FOR FIRM PANEL LAYOUT)

CONTAINS:

COMMUNITY	NUMBER	PANEL	SUFFIX
DEKALB COUNTY	13089	0169	J

Notice to User: The Map Number shown below should be used when placing map orders; the Community Number shown above should be used on insurance applications for the subject community.



MAP NUMBER
13089C0169J

MAP REVISED
MAY 16, 2013

Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at www.msc.fema.gov

Atlanta

Gillem Logistics Center

Arabia Mountain National Heritage Area

Panola Mountain State Park

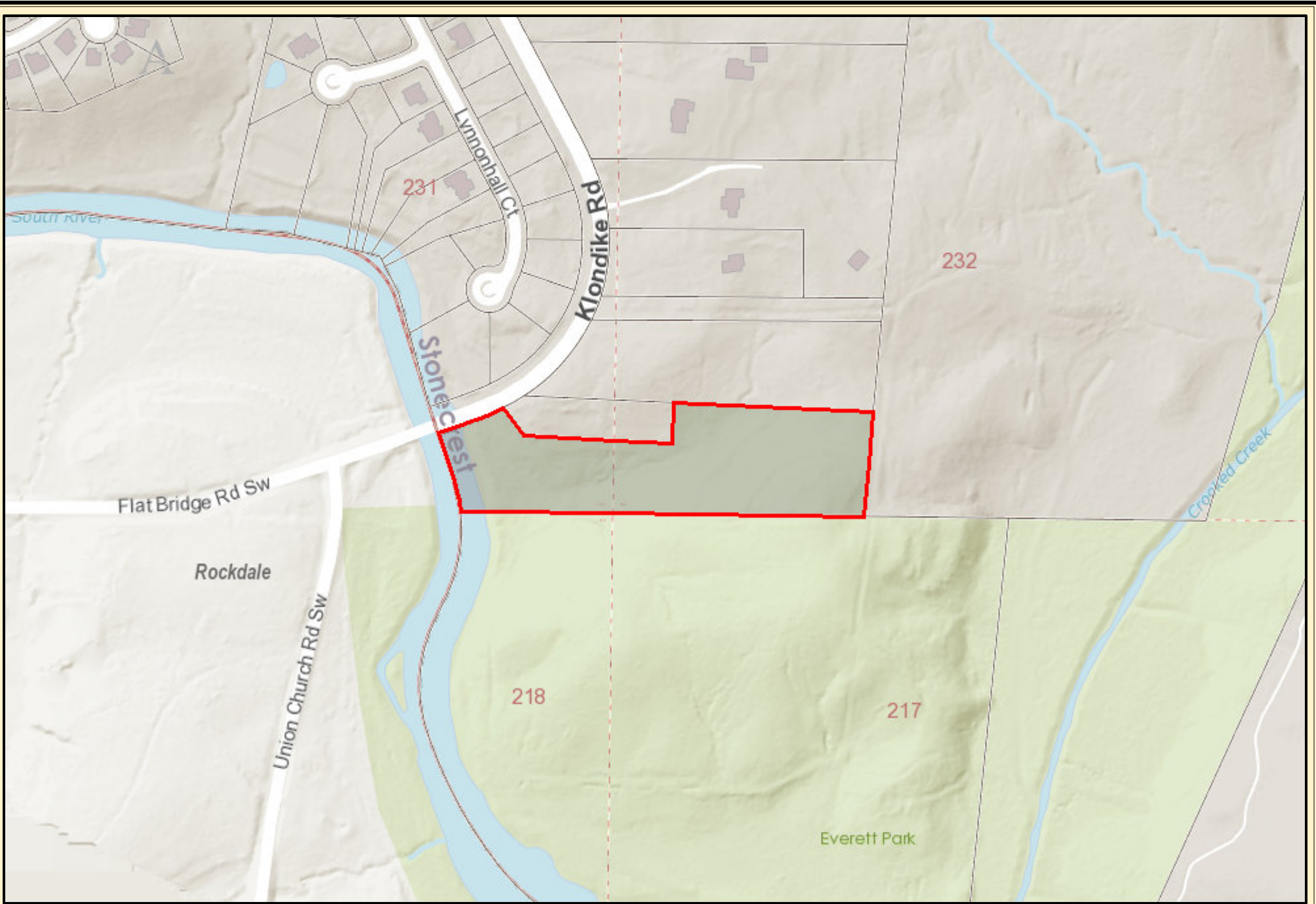
SITE

5105 Klondike Road

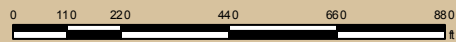
Google



VICINITY MAP



DEMA Response Map



Date Printed: 10/30/2019



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CITY COUNCIL AGENDA ITEM

SUBJECT: MOU for Youth Basketball/Youth Sports at Browns Mill Recreation Center

- ORDINANCE POLICY STATUS REPORT
 DISCUSSION ONLY RESOLUTION OTHER

Council Meeting: 11/12/2019

SUBMITTED BY: Sean de Palma

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Approval

Memorandum of Agreement

*Browns Mill Recreation Center Youth Services
Between
the City of Stonecrest, Georgia and South DeKalb Family YMCA*

WITNESSETH:

WHEREAS, the City of Stonecrest, Georgia (“City”) is responsible for providing youth services at the Browns Mill Recreation Center for its citizens; and

WHEREAS, after interviewing potential providers and evaluating the needs of the City, the City Department of Parks and Recreation has determined that South DeKalb Family YMCA is the best candidate to provide youth basketball services at the Browns Mill Recreation Center; and

WHEREAS, the City and South DeKalb Family YMCA (“YMCA”) have partnered to design a program with enriching activities that provide the youth of Stonecrest the opportunity to grow; and learn.

WHEREAS, these activities include but are not limited to a recreational basketball league; and

WHEREAS, the cost per child for such services will be \$110.00 charged to citizens who wish to register for recreational basketball; and

WHEREAS, the City will not be directly responsible for the expenses related to the YMCA providing youth basketball services at Browns Mill Recreation Center, the cost per child will cover all expenses. The city will be responsible for the facility repairs, upgrades and maintenance.

NOW, THEREFORE, for and in consideration of the mutual covenants hereinafter contained, the parties hereby agree as follows:

SECTION 1: PARTIES

This Memorandum of Agreement (“MOA”) is made and entered into by and between the City of Stonecrest, Georgia, 3120 Stonecrest Boulevard, Suite 190, Stonecrest, GA 30038 (“City”) and the South DeKalb Family YMCA, a branch of The Young Men’s Christian Association of Metropolitan Atlanta, Inc. d/b/a YMCA of Metro Atlanta 569 Martin Luther King Jr. Drive NW, Atlanta, GA 30314 (“YMCA”).

SECTION 2: PURPOSE AND SCOPE OF SERVICES

The purpose of this MOA is to establish the terms and conditions under which the YMCA will provide youth basketball services at the Browns Mill Recreation Center. The YMCA will provide youth basketball programs that incorporate all aspects of traditional youth basketball

[3137993/1]

league, team practice and scheduled games. The YMCA will provide youth basketball services for kids' ages 4-15 years old.

SECTION 3: TERM

This MOA shall become effective upon execution by all parties and remain in effect until March 1, 2020, unless terminated by one of the parties as provided below. Amendments may be added to this document regarding future services including but not limited to Spring Soccer March 2020 Summer Basketball August 2020, Fall Soccer 2020

The City may terminate this Contract for cause upon ten (10) days prior written notice to the YMCA of its default in the performance of any term of this Contract. Such termination shall be without prejudice to any of the City's rights or remedies provided by law.

This MOA may be terminated, without cause, by either party upon ten (10) days written notice, which notice shall be delivered by hand or certified mail to the address listed above.

All parties may request changes to this agreement at any time by written notice to the other parties' signatory of this agreement. Such changes as are mutually agreed upon by and between the parties shall be incorporated in written amendments to this agreement and executed in the same manner as this Agreement. This Agreement may only be modified by an instrument in writing executed by the City and YMCA. The parties agree to cooperate with each other by executing such documents as may be necessary to evidence such mutually agreeable modifications and refinements.

SECTION 4: ROLES AND RESPONSIBILITIES OF THE PARTIES

A. YMCA

The YMCA shall:

1. Provide youth basketball services program for children aged 4-15 years old at a cost of \$110.00 per child beginning on December 5, 2019. (December 5, 2019 game start date).
2. Register and place all children and or teams, to include a once a week practice and weekly games. (On-site registration at Browns Mill Recreation Center and online registration will be available).
3. Ensure all staff and volunteers have been screened and background checked.
4. Provide program oversight to provide a consistent and fun program.
5. Hold all games at the Browns Mill Recreation Center or the South DeKalb Family YMCA.

B. CITY OF STONECREST

The City of Stonecrest shall:

1. Maintain Browns Mill Recreation Center in a safe and clean condition.

SECTION 5: INDEMNIFICATION AND HOLD HARMLESS

The YMCA agrees to protect, defend, indemnify, and hold harmless the City, its council members, officers, agents and employees from and against any and all liability, damages, claims, suits, liens, and judgments, for whatever nature, including claims for contribution and/or indemnification, for injuries to or death of any person or persons, or damage to the property or other rights of any person or persons to the extent arising out of and attributed to the negligent errors, acts, or omissions of the YMCA. YMCA's obligation to protect, defend, indemnify, and hold harmless, as set forth hereinabove shall include any matter arising out of any patent, trademark, copyright, or service mark, or any actual or alleged unfair competition disparagement of product or service, or other business tort of any type whatsoever, or any actual or alleged violation of trade regulations.

The City of Stonecrest shall be liable for injuries, and claims related to the Browns Mill recreation facility or caused by neglect of facility maintenance to include but not limited to all parking areas.

YMCA further agrees to protect, defend, indemnify, and hold harmless the City, its council members, officers, agents, and employees from and against any and all claims or liability for compensation under the Worker's Compensation Act arising out of injuries sustained by any employee of the Service Provider.

SECTION 6: INSURANCE

YMCA promises and warrants that it carries liability insurance with a minimum liability occurrence limit of \$1,000,000. The certificate of insurance will indicate that YMCA has made The City of Stonecrest an "additional insured" on YMCA's policy with respect to the use by YMCA of the above described premises.

SECTION 7: COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS

All parties shall comply with all applicable local, state, and federal laws and regulations. Nothing in this Agreement alters, or seeks to alter, the existing statutory authority of the parties under state or federal law. If any of the provisions of this Agreement are held to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

SECTION 8: RIGHTS IN DOCUMENTS, MATERIALS, AND DATA PRODUCED

For the purposes of this agreement, 'data' includes, but is not limited to, writings, sound recordings, photographs, films, videotapes, or other graphic representations and works of a similar nature. The parties shall have the right to use same without restriction or limitation and without compensation to the other parties of the agreement subject to written permission by parents and according to Bright From the Start rules and regulations. .

SECTION 9: COUNTERPARTS

[3137993/1]

This MOA may be executed by any number of counterparts with the same effect as if all the Parties hereto had signed the same document. All such counterparts shall be construed together and shall constitute one instrument, but in making proof hereof it shall only be necessary to produce one such counterpart.

[SIGNATURES TO FOLLOW]

Counterpart 1 of 2 to the Memorandum of Agreement

Witness:

City of Stonecrest, Georgia

Municipal Clerk

Jason Lary, Sr., Mayor

Date

Approved as to Form:

Recommended:

Approved:

Counterpart 2 of 2 to the Memorandum of Agreement

South DeKalb YMCA

Attested

Title: _____

Date:



CITY COUNCIL AGENDA ITEM

SUBJECT: Floodplain Insurance Ordinance 2nd Read

- ORDINANCE POLICY STATUS REPORT
 DISCUSSION ONLY RESOLUTION OTHER

Council Meeting: 11/12/2019

SUBMITTED BY: Plez Joyner

PURPOSE:

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Approval

ARTICLE IV. - FLOODPLAIN MANAGEMENT

DIVISION 1. - FINDINGS OF FACT AND STATEMENT OF PURPOSE

Sec. 14-406. Statutory Authority.

Article IX, Section II of the Constitution of the State of Georgia and Section 36-1-20(a) of the Official Code of Georgia Annotated have delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, City of Stonecrest, Georgia, does ordain this ordinance and establishes this set of floodplain management and flood hazard reduction provisions for the purpose of regulating the use of flood hazard areas. It is determined that the regulation of flood hazard areas and the prevention of flood damage are in the public interest and will minimize threats to public health and safety, as well as to private and public property.

Sec. 14-407. Findings of fact.

- (a) The flood hazard areas of the City are subject to periodic inundation, which results in loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (b) These flood losses are caused by uses that are inadequately elevated, floodproofed, or protected from flood damage. The cumulative effects of obstructions in areas of special flood hazards which increase flood heights and velocities also contribute to the flood loss.

Sec. 14-408. Purpose and intent.

It is the purpose of this Article to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (a) Protect, maintain and enhance human life and health;
- (b) Minimize the expenditure of public money for costly flood control projects;
- (c) Minimize the need for rescue and relief associated with flooding and generally undelinked at the expense of the general public;
- (d) Minimize prolonged business interruptions;
- (e) Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;

- (f) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;
- (g) Ensure that potential buyers are notified that property is in an area of special flood hazard;
- (h) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions; and
- (i) Improve the stormwater management, water quality, stream bank protection, stream corridor protection, wetland preservation and ecological functions of natural floodplain areas.

Sec. 14-409. - Methods of reducing flood losses.

In order to accomplish its purposes, this Article includes methods and provisions that:

- (a) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or result in damaging increases in erosion or flood heights or velocities;
- (b) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (c) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (d) Control filling, grading, dredging, and other development which may increase flood damage;
- (e) Prevent or regulate the construction of flood barriers, which will unnaturally divert flood waters or which may increase flood hazards in other areas; and
- (f) Limit the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of flood waters.

DIVISION 2. - DEFINITIONS

Sec. 14-410. - Specific definitions.

Unless specifically defined below, words or phrases used in this Article shall be interpreted so as to give them the meaning they have in common usage and to give this Article its most reasonable application.

Accessory use means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

Addition (to an existing building) means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a

firewall. Any walled and roofed addition which is connected by a firewall or is separated by an independent perimeter load-bearing wall shall be considered new construction.

"Adjacent to the future-conditions floodplain" means all those areas located lower in elevation than either three (3) feet above the base flood elevation or one (1) foot above the future-conditions flood elevation, whichever is higher, unless the area has absolutely no connection to the flooding source such as through pipes, sewer laterals, down drains, foundation drains, ground seepage, overland flow, gated or valved pipes, excavated and backfilled trenches, etc., with no fill or other manmade barriers creating the separation.

Adversely affects means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point.

Apex means the point of highest elevation on an alluvial fan, which on undisturbed fans is generally the point where the major stream that formed the fan emerges from the mountain front.

Appeal means a request for a review of the Director's interpretation of any provision of this Article.

Area of shallow flooding means a designated AO or AH zone on the flood insurance rate map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard. See "Special flood hazard area."

Base flood means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood").

Base flood elevation means the highest water surface elevation anticipated at any given point during the base flood.

Basement means any area of the building having its floor subgrade i.e., below ground level on all sides.

Basin means a region or land area drained by a single river system.

Building See *Structure*

Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations or storage of equipment or materials.

Director means the director of community development or designee.

Elevated building means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level, solid foundation perimeter walls, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

Encroachment means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.

Existing construction means, for floodplain management purposes, any structure for which the "start of construction" commenced before June 3, 2018, the effective date of the first floodplain management regulations adopted by the community as a basis for that community's participation in

the National Flood Insurance Program”

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before June 3, 2018.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA means the Federal Emergency Management Agency.

Flood, flooding, or flood water means:

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e., mudflows); and
- (2) The condition resulting from flood-related erosion.

Flood hazard boundary map (FHBM) means the official map on which the Federal Emergency Management Agency or the Federal Insurance Administration has delineated the special flood hazard areas as Zone A.

Flood insurance rate map (FIRM) means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood insurance study (FIS) means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the flood insurance rate map, the flood boundary and floodway map and the water surface elevation of the base flood.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source. See "Flooding."

Floodplain coordinator is the individual appointed to administer and enforce the floodplain management regulations, and shall mean the Director of Community Development or his or her designee.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

Floodway means the channel of river or other watercourse and the adjacent land areas of the floodplain that is necessary to contain and discharge the based flood flow without cumulatively

increasing the water surface elevation more than one (1) foot, also referred to as "regulatory floodway."

Floodway fringe is the area of the floodplain on either side of the regulatory floodway where encroachment may be permitted.

Fraud and victimization as related to Division 6, Variances, of this Article, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the Zoning Board of Appeals will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty (50) to one hundred (100) years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

Functionally dependent use means a use which cannot perform its intended purposes unless it is located or carried out in close proximity to water. The terms include only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and do not include long-term storage or related manufacturing facilities.

Future-conditions flood means the flood having a one (1) percent chance of being equaled or exceeded in any given year based on future-conditions hydrology. Also known as the one-hundred-year future-conditions flood.

Future-conditions floodplain means any land area susceptible to flooding by the future-conditions flood.

Future-conditions flood elevation means the flood standard equal to or higher than the base flood elevation. The future-conditions flood elevation is defined as the highest water surface anticipated at any given point during the future-conditions flood.

Future-conditions hydrology means the flood discharges associated with projected land-use conditions based on a community's zoning map, comprehensive land-use plans, and/or watershed study projections, and without consideration of projected future construction of flood detention structures or projected future hydraulic modifications, within a stream or other waterway, such as a bridge or culvert construction, fill and excavation.

Governing body is the Mayor and City Council for the City of Stonecrest.

Hardship as related to Division 6, Variances, of this Article means the exceptional hardship that could result from a failure to grant the requested variance. The Zoning Board of Appeals requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed foundation of a building.

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

Increased costs of compliance coverage means the National Flood Insurance Program coverage used to mitigate repetitive flood loss properties, where the cumulative flood damage over a ten-year period is such that the cost of repairing the damage is more than half of the building's fair market value.

Land development means any land change, including but not limited to, clearing, digging, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving, and any other installation of impervious cover.

Land Development Activities means those actions or activities that comprise or facilitate a result in land development.

Land development project means a specific land development undertaking.

Levee means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such a closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area, including basement (see "Basement"), which includes the following:

- (a) An unfinished or flood-resistant enclosure below the lowest floor that is usable solely for parking or vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of other provisions of this Chapter.
- (b) For residential structures, all subgrade-enclosed areas are considered to be basements, including below-grade garages and storage areas.

Manufactured home means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes any structure commonly referred to as a "mobile home" regardless of the date of manufacture. The term also includes parked trailers, travel trailers and similar transportable structures placed on a site for one hundred eighty (180) consecutive days or longer and intended to be improved property. The term "manufactured home" does not include a "recreational vehicle."

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

Mean sea level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this Article, the term is synonymous with National Geodetic Vertical Datum (NGVD).

Minimum necessary means to afford relief with a minimum of deviation from the requirements of this Article.

National Geodetic Vertical Datum (NGVD) as corrected in 1929, means the vertical control used as a reference for establishing varying elevations within a floodplain.

New construction, for floodplain management purposes, means structures for which the "start of construction" commenced after June 3, 2018, and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after June 3, 2018.

Owner means the legal or beneficial owner of a site, including but not limited to, a mortgagee or vendee in possession, receiver, executor, trustee, lessee or other person, firm or corporation in control of the site.

One-hundred-year flood or *100-year flood*. See "Base flood."

Permit means the authorization issued by the Director necessary to conduct a land-disturbing activity under the provisions of this Chapter.

Public safety and nuisance, as the term is used in division 6, Variances, of this Article means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational vehicle means a vehicle which is:

- (1) Built on a single chassis;

- (2) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Remedy a violation means to bring the structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing state or federal financial exposure with regard to the structure or other development.

Repetitive loss structure means a building covered by a contract for flood insurance that has incurred flood-related damages on two (2) occasions during a ten-year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood drainage, on the average, equaled or exceeded twenty-five (25) percent of the market value of the building at the time of each such flood event.

Riverine means relating to, formed by, or resembling a river (including tributaries), streams, brooks, etc.

Sheet flow area. See "Area of shallow flooding."

Site means the parcel of land being developed, or the portion thereof on which the land development project is located.

Special flood hazard area (SFHA) means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on an FHBM or FIRM as zone A, AO, A1-A30, AE, A99, AR or AH; all floodplain and floodprone areas at or below the future-conditions flood elevation; and all other floodprone areas. All streams with a drainage area of 100 acres or greater must have the special flood hazard area delineated.

Start of construction includes substantial improvement and other proposed new development and means the date the permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab for footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings or structures appurtenant to the principal structure, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

Subdivision means the division or re-division of a lot, tract or parcel of land, regardless of its existing and future use, into two or more lots, tracts or parcels, and includes divisions of land resulting from or made in connection with the layout or development of a new street or roadway or a change in an existing street or roadway.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial improvement means any combination of repairs, reconstruction, alteration, or improvements to a building, taking place during a ten-year period, in which the cumulative cost equals or exceeds fifty percent of the market value of the structure before the start of construction of the improvement. The market value of the building means:

(1) The appraised value of the structure prior to the start of the initial repair or improvement, or

(2) In the case of damage, the value of the structure prior to the damage occurring.

This term includes structures that have incurred "substantial damage" regardless of the actual amount of repair work performed. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other

structural part of the building commences, whether or not that alteration affects the external dimensions of the building.

Substantially improved existing manufactured home park or subdivision means the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads when the cost of such repair, reconstruction, rehabilitation or improvement equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Variance means a grant of relief from the requirements of this Article which permits construction in a manner that would otherwise be prohibited by this Article.

Violation means the failure of a structure or other development to be fully compliant with this Article. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this Article is presumed to be in violation until such time as that documentation is provided.

DIVISION 3. - GENERAL PROVISIONS

Sec. 14-411. - Lands and structures to which this article applies.

This article shall apply to all areas within the jurisdiction of the City.

Sec. 14-412. - Basis for establishing the areas of special flood hazard.

(a) The areas of special flood hazard currently identified by the Federal Insurance Administration of FEMA in the flood insurance study and accompanying flood insurance rate maps and flood boundary and floodway maps, currently dated August 15, 2019 and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this Article.

(b) The flood insurance study and attendant mapping is the minimum area of applicability of this Article and may be supplemented by studies for other areas which allow implementation of this Article and which are recommended to the governing authority by the floodplain coordinator. The Flood Insurance Study, Federal Insurance Rate Maps and Flood Boundary and Floodway Maps are on file with the City of Stonecrest.

(c) For those land areas acquired by city annexation, the flood insurance study and data in effect at the time of approval of this are hereby adopted by reference.

(d) The areas of special flood hazard may also include those areas known to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in a flood insurance study.

(e) Studies which may be relied upon for the establishment of the base flood elevation or delineation of the one-hundred-year floodplain include, but are not limited to, the following:

(1) Any flood or flood-related study conducted by the United States [Army] Corps of Engineers or the United States Geological Survey or any other local, state or federal agency applicable to the City of Stonecrest; or

(2) Any flood study authored by a registered professional engineer in the state which has been approved by the City of Stonecrest.

(f) Other studies, which may be relied upon for the establishment of the future-conditions flood 3056 elevation or delineation of the future-conditions floodplain, include, but are not limited to, the following:

(1) Any flood or flood-related study conducted by the United States [Army] Corps of Engineers or the United States Geological Survey or any other local state or federal agency applicable to the City of Stonecrest; or

(2) Any regulatory flood study authored by a registered professional engineer in the state which has been approved by the City of Stonecrest.

Sec. 14-413. - Compliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the term of this Article and other applicable regulations. Violation

of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this Article or fails to comply with any of its requirements shall, upon conviction thereof, be subject to a fine and/or imprisonment in accordance with Chapter 1 of the City of Stonecrest Code. Each day such violation continues shall be considered a separate offense, and nothing herein shall prevent the City from taking such lawful action as is necessary to prevent or remedy any violation.

Sec. 14-414. - Repetitive loss structure and cumulative substantial damage.

A building must be brought into compliance with requirements for new construction if it has incurred flood-related damages on two (2) occasions during a ten-year period in which the cost of repairing the flood damage, on the average, equaled or exceeded twenty-five (25) percent of the market value of the building at the time of each such flood event, or damage of any origin is sustained whereby the cost of restoring the building to its before damage condition would equal or exceed fifty (50) percent of the market value of the building before the damage occurred.

Sec. 14-415. - Mandatory purchase of flood insurance.

In the event that a property owner chooses not to purchase flood insurance on property at risk, or does not comply with a notice to bring a building into compliance, reducing the community efforts for flood protection, the insurance premium discount for the community's property owners as a community rating participant may not apply.

Sec. 14-416. - Abrogation and greater restrictions.

This Article is not intended to repeal, abrogate, or impair any existing easements, covenant, or deed restrictions. However, where this Article and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Sec. 14-417. - Interpretation.

In the interpretation and application of this Article, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

Sec. 14-418. - Warning and disclaimer of liability.

The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Article does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of City, any officer or employee thereof, the State of Georgia, or the Federal Insurance Administration, Federal Emergency Management Agency, for any flood

damages that result from reliance on this Article or any administrative decision lawfully made hereunder.

Sec. 14-419. - Severability.

This Article and the various parts thereof are hereby declared to be severable. Should any section of this Article be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Article as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

DIVISION 4. - ADMINISTRATION

Sec. 14-420. - Establishment of development permit.

A development permit shall be obtained before any construction of other development begins within any area of special flood hazard. Application for a development permit shall be made on forms promulgated by the Director and may include, but not be limited to, floodplain management/flood damage prevention plan; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials drainage facilities; and location of the foregoing. Specifically, all of the following information is required before the Director will consider the application for a development permit:

(a) *Application stage:*

(1) Site plan, including but not limited to:

- a. For all proposed structures, spot ground elevations at building corners and twenty-foot or smaller intervals along the foundation footprints, or one-foot contour elevations throughout the building site; and
- b. Proposed locations of water supply, sanitary sewer, and utilities; and
- c. If available, the base flood elevation from the flood insurance study and/or flood insurance rate map; and
- d. If applicable, the location of the regulatory floodway; and
- e. Existing and proposed elevation of the area in question and the nature, location and dimensions of existing and/or proposed structures, earthen fill placement, amount and location of excavation material and storage of materials or equipment; and
- f. Proposed locations of drainage and stormwater management facilities; and
- g. Proposed grading plan; and
- h. Base flood elevations and future-conditions flood elevations; and
- i. Boundaries of the base flood floodplain and future-conditions floodplain; and

- j. Certification of the site plan by a registered professional engineer in the state.
- (2) Building and foundation design detail, including but not limited to:
- a. Proposed elevation in relation to mean sea level, or highest adjacent grade, of the lowest floor, including the basement, of all structures; and
 - b. For a crawl space foundation, location and total net area of foundation openings as required in subsection 14-429(6)(3) and FEMA Technical Bulletins 1-93 and 7-93; and
 - c. For foundations placed on fill, the location and height of fill, and compaction requirements (compacted to ninety-five (95) percent using the Standard Proctor Test Method); and
 - d. Certification that any proposed nonresidential floodproofed structure meets the criteria in 14-429; and
 - e. For enclosures below the base flood elevation, location and total net area of foundation openings as required in 14-429c(i).
 - f. Certification that the foundation design detail is by a registered professional engineer in the state.
- (3) Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in subsection 14-429(6)(3)6. and FEMA Technical Bulletin TB 3-93; and
- (4) All appropriate certifications listed in subsection 14-429(6)(3); and
- (5) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and
- (6) Hard copies and digital files of computer models, if any, copies of work maps, comparison of pre- and post-development conditions base flood elevations, future conditions flood elevations, flood protection elevations, special flood hazard areas and regulatory floodway widths, flood profiles and all other computations and other information similar to that presented in the FIS; and
- (7) Copies of all applicable state and federal permits and certifications necessary for proposed development.

(b) *Construction stage:*

- (1) For all new construction and substantial improvements on sites with a floodplain management/flood damage prevention plan, the permit holder shall provide to the floodplain coordinator a certified as-built elevation certificate or floodproofing certificate for nonresidential construction, including the lowest floor elevation, immediately after the lowest floor or floodproofing is completed. Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a currently state-registered land surveyor or currently state-registered professional engineer and certified by same. When floodproofing is utilized for

nonresidential structures, said certification shall be prepared by or under the direct supervision of a currently state-registered professional engineer or architect and certified by the same.

(2) Any work undertaken prior to submission of the certifications identified in subsection 14-420(b)(1) shall be at the permit holder's risk. The floodplain coordinator shall review the above-referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being allowed to proceed. Failure to submit certification or, failure to make said corrections required herein, shall be cause to issue a stop-work order for the project.

(3) Copies of permits issued for construction in the floodplain shall be forwarded to the floodplain coordinator.

(c) The approved floodplain management/flood damage prevention plan shall contain certification by the applicant that all development activities will be done according to the plan or previously approved regions. Any and all development permits and/or use and occupancy certificates or permits may be revoked at any time if the construction and development activities are not in strict accordance with approved plans.

(d) A development permit will not be approved for any construction or other development activities that do not meet the requirements, restrictions and criteria of this Article.

Sec. 14-421. - Designation of the floodplain coordinator.

The Director is hereby appointed as the floodplain coordinator and is authorized to administer, implement, and enforce this Article by granting or denying permits in accord with its provisions.

Sec. 14-422. - Duties and responsibilities of the floodplain coordinator.

The duties and responsibilities of the floodplain coordinator shall include, but not be limited to, the following:

(a) Review all development permits to determine that:

(1) The permit requirements of this Article have been satisfied;

(2) Copies for all necessary permits from any governmental agencies from which approval is required are on file;

(3) All other required state and federal permits have been obtained;

(4) The site is reasonably safe from flooding; and

(5) The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated.

(b) Review, use and develop base flood data:

(1) When base flood elevation data has not been provided in accordance with section 14-412, the floodplain coordinator shall obtain, review, and reasonably utilize any

base flood elevation, future conditions flood elevation, floodway or future conditions floodway data available from a federal or state agency, or other source, in order to administer the provisions of this Article. Any such information shall be submitted to the Mayor and City Council for adoption; or

- (2) Review and record the actual elevation in relation to the mean sea level, or highest adjacent grade, of the lowest floor, including basement, of all new or substantially improved structures.
- (c) Notify other government agencies of an alteration or relocation of a watercourse:
 - (1) Notify adjacent communities and the Georgia Department of Water Resources prior to any alteration or relocation of a watercourse; and
 - (2) Submit evidence of such notification to the Federal Insurance Administration and FEMA; and
 - (3) Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.
- (d) Obtain and maintain for public inspection and make available, as needed, the following:
 - (1) Certification required by subsection 14-429(b)(3) and section 14-432 (lowest floor elevations);
 - (2) Certification required by subsection 14-429(b)(3)b. (elevation or floodproofing of nonresidential structures);
 - (3) Certification required by subsection 14-429(b)(3)b. (wet floodproofing standard);
 - (4) Certification of elevation required by section 14-432 (subdivision standards); and
 - (5) Certification required by section 14-439 (floodway encroachments).
- (e) Make map determinations and interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard. Where there appears to be a conflict between a mapped boundary and actual field conditions, grade and base flood elevations shall be used to determine the boundaries of the special flood hazard area. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation of the floodplain coordinator.
- (f) Review and record the actual elevation, in relation to mean sea level, to which any new construction or substantial improvement has been floodproofed.
- (g) Take action to remedy violations of this Article as specified in section 14-413.
- (h) Respond to requests for listings of properties in the floodplain. The adopted method for disclosure at the time of sale or rental of a property is accomplished by providing to the interested parties, general public, realtor, insurance, mortgage and engineering consulting firms with an electronic database listing all properties in the floodplain, annually updated, and free of charge.
- (i) Duties for variances.

(1) Maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Insurance Administration and Federal Emergency Management Agency.

(2) Maintain the records of all appeal actions and report any variances to FEMA upon request.

Sec. 14-423. - Appeals.

The Zoning Board of Appeals shall hear and decide appeals when an applicant alleges there is an error in any requirement, decision, or determination made by the floodplain coordinator within one thousand (1,000) feet of the property in the enforcement or administration of this Article.

DIVISION 5. - PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 14-424. - Floodplain management planning and public information.

(a) To comply with requirements of the community rating system, the City adopts the following:

(1) A floodplain management plan and progress that will be reported in the annual re-certification process. This plan will be updated for each subsequent two-year period.

(2) Public information shall include, but it is not limited to elevation certificate repository, map information, outreach projects, hazard disclosure, flood protection, and flood protection assistance.

Sec. 14-425. - Stream dumping penalties.

Ally natural growth or human-made debris that reduces the carrying and storage capacity of the City drainage system may be a violation of this Article. Any person who dumps log, trash, trees, and similar debris, shall, upon conviction, be subject to a fine and/or imprisonment according to Chapter 1 of the City of Stonecrest Code.

Sec. 14-426. - Definitions of floodplain boundaries.

(a) Studied "A" zones, as identified in the flood insurance study, shall be used to establish base flood elevations whenever available.

(b) For all streams with drainage area of one hundred (100) acres or greater, the future-conditions flood elevations shall be provided by the floodplain coordinator. If future-conditions elevation data is not available from the floodplain coordinator, then it shall be determined by a registered professional engineer using a method approved by FEMA and the floodplain coordinator.

Sec. 14-427. - Engineering study requirements for floodplain encroachments.

An engineering study is required, as appropriate to the proposed development activities on a site, whenever a development proposes to disturb the regulatory floodplain, except for a residential single-lot development on streams without established base flood elevations and/or floodways for which the provisions of section 14-439 shall apply. This study shall be prepared by a currently state-registered professional engineer and made a part of the application for a development permit pursuant to section 14-420. This information shall be submitted to and approved by the floodplain coordinator prior to the approval of any permit that would authorize the disturbance of land located within the future-conditions floodplain. Such study shall include:

- (a) Description of the extent to which any watercourse or floodplain will be altered or relocated as a result of the proposed development;
- (b) Step-backwater analysis, using a FEMA-approved methodology. Cross-sections (which may be supplemented by the applicant) and flow information will be obtained whenever available. Computations will be shown duplicating the flood insurance study results and will then be rerun with the proposed modifications to determine the new base flood and future conditions flood profiles;
 - (c) Floodplain storage calculations based on cross-sections (at least one (1) every one hundred (100) feet) showing existing and proposed floodplain conditions to show that base floodplain and future conditions floodplain storage capacity would not be diminished by the development;
- (d) The study shall include a preliminary plat, grading plan, or site plan, as appropriate, which shall clearly define all floodplain encroachments.

Sec. 14-428. - General standards.

- (a) No development shall be allowed within the future-conditions floodplain that could result in the following:
 - (1) Raising the base flood elevation or future-conditions flood elevation equal to or more than 0.01 foot;
 - (2) Reducing the base flood or future-conditions flood storage capacity;
 - (3) Changing the flow characteristics as to the depth and velocity of the waters of the base flood or future-conditions flood as they pass both the upstream and the downstream boundaries of the development area; or,
 - (4) Creating hazardous or erosion-producing velocities, or resulting in excessive sedimentation.
- (b) Any development within the future-conditions floodplain allowed under (a) above shall also meet the following conditions:
 - (1) Compensation for storage capacity shall occur between the average groundwater table elevation and the base flood elevation for the base flood, and between the average groundwater table elevation and the future-condition flood elevation for the future-conditions flood, and lie either within the boundaries of ownership of the property being

developed and shall be within the immediate vicinity of the location of the encroachment. Acceptable means of providing required compensation include lowering of natural ground elevations within the floodplain, or lowering of adjoining land areas to create additional floodplain storage. In no case shall any required compensation be provided via bottom storage or by excavating below the elevation of the top of the natural (predevelopment) stream channel unless such excavation results from the widening or relocation of the stream channel;

- (2) Cut areas shall be stabilized and graded to a slope of no less than 2.0 percent;
 - (3) Effective transitions shall be provided such that flow velocities occurring on both upstream and downstream properties are not increased or decreased;
 - (4) Verification of no-rise conditions (0.01 foot or less), flood storage volumes, and flow characteristics shall be provided via a step-backwater analysis meeting the requirements of section 14-430;
 - (5) Public utilities and facilities, such as water, sanitary sewer, gas, and electrical systems, shall be located and constructed to minimize or eliminate infiltration or contamination from flood waters; and
 - (6) Any significant physical changes to the base flood floodplain shall be submitted as a conditional letter of map revision (CLOMR) or conditional letter of map amendment (CLOMA), whichever is applicable. The CLOMR submittal shall be subject to approval by the Director using the community consent forms before forwarding the submittal package to FEMA for final approval. Forwarding the CLOMR to FEMA and for obtaining the CLOMR approval shall be the responsibility of the applicant. Within six months of the completion of construction, the applicant shall submit as-built surveys for a final letter of map revision (LOMR).

Sec. 14-429. - Standards of construction within the limits of the future-conditions floodplain

- (a) New construction and substantial improvements of principal buildings (residential or nonresidential), including manufactured homes, shall not be allowed within the limits of the future-conditions floodplain, unless all of the pertinent requirements of this Article have been met.
- (b) No structure or land shall hereafter be located, extended, converted or altered without full compliance with the terms of this Article and other applicable provisions of this Code, state or federal law. In all areas of flood hazards the following standards are required:
 - (1) *Anchoring.* All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - (2) *Construction materials and methods.* All new construction and substantial improvements shall be constructed:
 - (i) With flood resistant materials as specified in FEMA Technical Bulletin TB 2-93, and utility equipment resistant to flood damage;
 - (ii) Using methods and practices that minimize flood damage;

(iii) All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing and other service facilities shall be designed and/or located three (3) feet above the base flood elevation or one (1) foot above the future-conditions flood elevation, whichever is higher, so as to prevent water from entering or accumulating within the components during conditions of flooding; and

(iv) Within zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

(3) *Elevation and floodproofing.*

(i) Residential Buildings

New construction and substantial improvements of principal buildings, including manufactured homes, shall not be allowed within the limits of the future-conditions floodplain unless all requirements of Section 14-427, 14-428, and 14-439 have been met. If all of the requirements of Section 14-427, 14-428, and 14-439 have been met, all new construction and substantial improvements shall have the lowest floor, including basement, elevated no lower than three (3) feet above the base flood elevation or one (1) foot above the future-conditions flood elevation, which is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to equalize the hydrostatic flood forces on exterior walls and to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of subsection (iii).

(ii) Non-Residential Buildings

New construction and substantial improvements of principal buildings, including manufactured homes, shall not be allowed within the limits of the future-conditions floodplain unless all requirements of Section 14-427, 14-428, and 14-439 have been met. If all of the requirements of Section 14-427, 14-428, and 14-439 have been met, all new construction and substantial improvements shall have the lowest floor, including basement, elevated no lower than one (1) foot above the base flood elevation or the future-conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to equalize the hydrostatic flood forces on exterior walls and to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of subsection (iii). New construction and substantial improvements that have met all of the requirements of section 14-427, 14-428, and 14-439 may be floodproofed in-lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be watertight to one (1) foot above the base flood elevation, or at least as high as the future-conditions flood elevation, whichever is higher, with walls substantially impermeable to the passage of water and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered Professional Engineer or Architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the

provisions above, and shall provide such certification to the floodplain coordinator.

(iii) (*Elevated Buildings*) All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting these requirements shall follow the guidelines in FEMA Technical Bulletins TB 1-93 and TB-7-93, and must exceed the following minimum criteria:

- a. Have a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater; and
- b. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms; and
- c. Be certified by a currently state-registered professional engineer or currently state-registered architect.

(iv) Any alteration, repair, reconstruction or improvement to a structure, which is not compliant with the provisions of this Article, shall be undertaken only if the nonconformity will not be furthered, extended or replaced.

(v) On-site waste disposal system shall be located and constructed to avoid impairment to them, or contamination from them, during flooding;

(vi) If the proposed development is located in multiple flood zones or multiple base flood elevation cross the proposed site, the higher or more restrictive future condition elevation and development standards shall take precedence.

Sec. 14-430. - Standards for utilities.

- (a) All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:
 - (1) Infiltration of floodwaters into the systems, and
 - (2) Discharge from the systems into floodwaters.
- (b) On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.
- (c) All above-ground utilities shall be elevated three (3) feet above the base flood elevation or one (1) foot above the future-conditions flood elevation, whichever is higher.

Sec. 14-431. - Standards for subdivisions.

- (a) All subdivision and other development proposals shall identify the special flood hazard area and provide base flood elevation data and future-conditions flood elevation data.
- (b) All residential lots in a subdivision proposal shall have sufficient buildable area outside of the future-conditions floodplain such that encroachments into the future conditions floodplain for residential structures will not be required.
- (c) All applications for land-disturbance permits will provide the elevation of proposed structure(s) and pad(s). If the site is filled above the base flood elevation, the lowest floor and pad elevations shall be certified by a currently state-registered professional engineer or currently state-registered land surveyor and provided to the floodplain coordinator.
- (d) All applications for land-disturbance permits shall be consistent with the need to minimize flood damage and shall be reasonably safe from flooding.
- (e) All applications for land-disturbance permits shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage or discharge from the system into flood waters.
- (f) All applications for land-disturbance permits shall provide adequate drainage and stormwater management facilities to reduce exposure to flood hazards.
- (g) All subdivision proposals shall provide the elevations of proposed structures in accordance with section 14-420.

Sec. 14-432. - Standards for manufactured homes.

(a) All manufactured homes that are substantially improved within the limits of the future-conditions floodplain shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated three (3) feet above the base flood elevation, or one (1) foot above the future-conditions flood elevation, whichever is higher, and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, if the manufactured home is on a site located:

- (1) Outside of a manufactured home park or subdivision;
- (2) In a new manufactured home park or subdivision;

(3) In an expansion to an existing manufactured home park or subdivision, or

(4) In an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred "substantial damage" as the result of a flood.

(b) All manufactured homes to be substantially improved on sites in an existing manufactured home park or subdivision within the limits of the future-conditions floodplain that are not subject to the provisions of subsection (a) will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:

(1) Lowest floor of the manufactured home is three (3) feet above the base flood elevation, or one (1) foot above the future-conditions flood elevation, whichever is higher, or

(2) Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade.

(c) Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a currently state-registered professional engineer or currently state-registered land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the floodplain coordinator.

(d) New manufactured homes shall not be allowed to be placed within the limits of the future-conditions floodplain unless all requirements of section 14-431, 14-432, 14-442 have been met.

Sec. 14-433. - Standards for recreational vehicles.

All recreational vehicles placed on sites within the limits of the future-conditions floodplain will either:

(a) Be on the site for fewer than one hundred eighty (180) consecutive days, and be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices, and has no permanently attached additions, or

(b) The recreational vehicle must meet all the requirements for new construction of residential buildings, including the anchoring and elevation requirements.

Sec. 14-434. - Standards for accessory structures and facilities.

Accessory structures and facilities (i.e., barns, sheds, gazebos, detached garages, parking lots, recreational facilities and other similar structures and facilities) that are permitted to be located within the limits of the floodplain shall be constructed of flood-resistant materials and designed to pass all floodwater in accordance with subsection 14-429(b)(3)(iii) and be anchored to prevent flotation, collapse or lateral movement of the structure.

Sec. 14-435. - Building standards for buildings authorized adjacent to the future-conditions floodplain

(a) *Residential buildings.* For new construction or substantial improvement of any principal residential building or manufactured home, the elevation of the lowest floor, including

basement and access to the building, shall be at least three (3) feet above the base flood elevation, or one (1) foot above the future-conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to equalize the hydrostatic flood forces on exterior walls and to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of Section 14-429(b)(3)(iii).

- (b) *Nonresidential buildings.* For new construction or substantial improvement of any principal nonresidential building, the elevation of the lowest floor, including basement and access to the building, shall be at least one (1) foot above the base flood elevation or at least as high as the future-conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to equalize the hydrostatic flood forces on exterior walls and to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of Section 14-429(b)(3)(iii).

Sec. 14-436. - Building standards for residential single-lot developments on streams without established base flood elevations and/or floodway (A-zones).

(a) For residential single-lot development not part of a subdivision that has areas of special flood hazard, where streams exist but no base flood data has been provided (A-zones), the floodplain coordinator shall review and reasonably utilize any available scientific or historic flood elevation, base flood elevation and floodway data, or future-conditions flood elevation data available from a federal, state, local or other source, in order to administer the provisions and standards of this Article.

- (b) If no data is available from any of these sources, the following provisions will apply:

(1) No encroachments including structures or fill material, shall be located within an area equal to twice the width of the stream or fifty (50) feet from the top of the bank of the stream, whichever is greater.

(2) In special flood hazard areas without base flood or future-conditions flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three (3) feet above the highest adjacent grade at the building site. Opening sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with section 14-428.

Sec. 14-437. - Building standards for areas of shallow flooding (AO-zones).

(a) Areas of special flood hazard may include designated "AO" shallow-flooding areas. These areas have base flood depths of one (1) to three (3) feet above ground, with no clearly defined channel. In these areas the following provisions apply:

(1) All substantial improvements of residential and nonresidential structures shall have the lowest floor, including basement, elevated to no lower than one (1) foot above the flood

depth number specified on the flood insurance rate map, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance

with the standards for "elevated buildings" set forth in this Code or promulgated by the Director or the State. The applicant's or owner's engineer shall certify to the floodplain coordinator that the lowest floor elevation level and the record shall become a permanent part of the permit file.

(2) Substantial improvement of a nonresidential structure may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be

designed to be water tight to the specified flood insurance rate map flood level plus one (1) foot above the highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice; and,

(b) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

Sec. 14-438. - Definition of floodway boundaries.

(a) The width of a floodway shall be determined from the flood insurance study or FEMA-approved flood study. For all streams with a drainage area of one hundred (100) acres or greater, the regulatory floodway shall be provided by the floodplain coordinator. If floodway data is not available from the floodplain coordinator, then it shall be determined by a registered professional engineer using a method approved by FEMA and the floodplain coordinator.

(b) Following a pre-design conference with the floodplain coordinator, the boundaries or limits of the floodway shall be shown on the development or stormwater site plan containing existing topographic information.

Sec. 14-439. - Floodway encroachments.

Located within areas of special flood hazard established in section 14-412 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters, which can-y debris, potential projectiles, and erosion potential, the following provisions apply:

(a) All encroachments are prohibited, including earthen fill, new construction, substantial improvement, and any other new development within the regulatory floodway, except for activities specifically allowed in [subsection] (b).

(b) Encroachments for bridges, culverts, roadways and utilities within the regulatory floodway may be permitted provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase to the pre-project base flood elevations, floodway elevations or floodway widths during the base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof.

(c) If an applicant proposes to revise the floodway boundaries, no permit authorizing the encroachment into or an alteration of the floodways shall be issued by the floodplain coordinator until an affirmative conditional letter of map revision is issued by FEMA and a no-rise certification is approved by the floodplain coordinator.

Sec. 14-440. - Maintenance requirements.

The owner shall be responsible for continuing maintenance as may be needed within an altered or relocated portion of a floodplain on his property so that the flood-carrying or flood

storage capacity is not diminished. The floodplain coordinator may direct the owner (at no cost to the City) to restore the flood-carrying or flood storage capacity of the floodplain if the owner has not performed maintenance as required by the approved floodplain management plan on file with the floodplain coordinator.

DIVISION 6. - VARIANCE PROCEDURE

Sec. 14-441. - Nature of variance.

- (a) The variance criteria set forth in this Division are based on the general principle of law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this Article would create an exceptional hardship to the owner or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristics must pertain to the land itself, not to the structure, its inhabitants, or the property owners.
- (b) It is the duty of the Mayor and City Council to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level is so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this Article are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

Sec. 14-442. - Appeal board.

(a) In passing upon requests for variances, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Article including all of the following:

- (1) Danger that materials may be swept onto other lands to the injury of others;
- (2) Danger of life and property due to flooding or erosion damage;
- (3) Susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the existing individual owner and future owners of the property;
- (4) Importance of the services provided by the proposed facility to the community;
- (5) Necessity of the facility to a waterfront location, where applicable;
- (6) Availability of alternative locations for the proposed use that are not subject to flooding or erosion damage;
- (7) Compatibility of the proposed use with existing and anticipated development;
- (8) Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

- (9) Safety of access to the property in time of flood for ordinary and emergency vehicles;
 - (10) Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
 - (11) Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (b) Any owner to whom a variance is granted shall be given written notice from the Zoning Board of Appeals that:
- (1) The issuance of a variance to construct a structure below the base flood level may result in increased premium rates for flood insurance; and
 - (2) Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the floodplain coordinator in the office of the clerk of Superior Court of DeKalb County in a manner so that it appears in the chain of title of the affected parcel of land.

Sec. 14-443. - Conditions for variances.

- (a) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (b) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this Article are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.
- (c) Variances shall not be issued within any designated or mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.
- (d) Variances shall only be issued upon a determination that the variance is the minimum necessary considering the flood hazard, to afford relief.

Sec. 14-444. - Variance procedure.

- (a) The Zoning Board of Appeals, as established by the City, shall hear and decide requests for appeals or requests for variances from the requirements of this Article.
- (b) The Zoning Board of Appeals shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the floodplain coordinator in the enforcement or administration of this Article. No action will be taken under the terms of this Division unless such relief can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of this Chapter.
- (c) In reviewing such requests, the Zoning Board of Appeals shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this Article.

- (d) Applications for variances must be submitted in writing to the Director in accordance with Chapter 27.
- (e) Applications for variance shall be heard at a public hearing by the Zoning Board of Appeals pursuant to Chapter 27.
- (f) A variance shall only be issued when all of the following conditions are present:
 - (1) A finding of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in undue and exceptional hardship;
 - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, or cause fraud or victimize the public;
 - (4) The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute limitations upon other properties;
 - (5) The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements; and
 - (6) The strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners.
- (g) Upon consideration of the factors of subsection 14-442(a) and the purposes of this Article, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Article.
- (h) Any person aggrieved by the decision of the Zoning Board of Appeals may appeal such decision by writ of certiorari to the Superior Court of DeKalb County in accordance with state law. A person shall be considered aggrieved for the purpose of this subsection only if: said person or said person's property was the subject of the action appealed from; or said person has a substantial interest in the action appealed from that is in danger of suffering special damage or injury not common to all property owners similarly situated.

Sec. 14-445. - Violations, enforcement and penalties.

Any action or inaction which violates the provisions of this Article or the requirements of an approved stormwater management plan or permit may be subject to the enforcement actions outlined in this section. Any such action or inaction which is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described in this Article shall not prevent such equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

Sec. 14-446. - Notice of violation.

If the floodplain coordinator determines that a property owner or other responsible person has failed to comply with the applicable provisions of this Code, an approved stormwater management plan or the provisions of this Chapter, he shall issue a written notice of violation to such owner or other responsible person. Where a person is engaged in activity covered by this

Chapter without having first secured a permit thereof, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.

The notice of violation shall contain:

- (1) The name and address of the owner or the responsible person;
- (2) The address or other description of the site upon which the violation is occurring;
- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the stormwater management plan or this ordinance and the date for the completion of such remedial action;
- (5) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and,
- (6) A statement that the determination of violation may be appealed to the Director by filing a written notice of appeal within thirty (30) days after the notice of violation.

Sec. 14-447. - Penalties.

In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one (1) or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the Director shall first notify the owner or other responsible person in writing of its intended action, and shall provide a reasonable opportunity of not less than ten (10) days (except, that in the event the violation constitutes an immediate danger to public health or public safety, twenty-four (24) hours' notice shall be sufficient to cure such violation. In the event the owner or other responsible person fails to cure such violation after such notice and cure period, the Director may take any one or more of the following actions or impose any one or more of the following penalties:

- (a) *Stop-work order.* The Director may issue a stop-work order that shall be served on the owner or other responsible person. The stop-work order shall remain in effect until the owner or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop-work order may be withdrawn or modified to enable the owner or other responsible person to take the necessary remedial measures to cure such violation or violations.
- (b) *Withhold certificate of occupancy.* The Director may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the owner or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
- (c) *Suspension, revocation or modification of permit.* The Director may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the owner or other responsible person has taken

the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the director may deem necessary) to enable the owner or other responsible person to take the necessary remedial measures to cure such violations.

(d) *Penalties.* For violations of this Chapter, the Director may issue a citation to the owner or other responsible person, requiring such person to appear in the Municipal Court to answer charges for such violation. Upon conviction, such person shall be punished by a fine as set forth in Chapter 1. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

Sec. 14-448.-14-499. Reserved.