

1 **ORDINANCE OF THE CITY OF STONECREST, GEORGIA, ADOPTING ARTICLE X,**
2 **CODE OF ETHICS, IN CHAPTER 2, ADMINISTRATION, OF THE CITY CODE.**

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

8 **WHEREAS,** this Ordinance shall be adopted as part of the City of Stonecrest City
9 Code, as Article X, Code of Ethics, in Chapter 2, Administration.

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

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

15
16 **“ARTICLE X. - CODE OF ETHICS**

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

18 (a) It is the policy of the City that the proper operation of democratic government requires that
19 public officials and employees be independent, impartial and responsible to the people; that
20 governmental decisions and policy be made in proper channels of the governmental
21 structure; that public office not be used for personal gain; and that the public have
22 confidence in the integrity of its government. In recognition of these goals, a code of ethics
23 for all city officials and employees is adopted.

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

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

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

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

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

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

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

36 **Sec. 2-377. - Definitions.**

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

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

41 (b) *City official and/or official*, unless otherwise expressly defined, means the mayor, the
42 members of the city council, candidates for the offices of the mayor and city council after
43 legal notice of candidacy and qualification as such candidate, the municipal court judges
44 (including substitute judges), the city manager, any assistant city managers, the city clerk,
45 any deputy city clerks, whether such person is salaried, hired or elected, and all other
46 persons holding positions designated by the city charter, as it may be amended from time to
47 time. City officials, unless otherwise expressly defined, includes individuals appointed by
48 the mayor, city council, or both, to all city boards, commissions, authorities and other

49 similar bodies, unless such individuals or individual members of city boards, commissions,
50 authorities and other similar bodies are specifically exempted from this Article by law, this
51 ordinance and/or the city council.

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

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

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

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

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

63 (h) *Exempt city boards, commissions, authorities and similar bodies* shall mean all boards,
64 commissions, authorities and similar bodies of the city other than the Board of Zoning
65 Appeals, Design Review Board, Historic Preservation Board, Planning Commission,
66 Construction Appeals Board, Alcohol Licensing and Appeals Board, Stonecrest Convention
67 and Visitors Bureau and any authority created by either the Georgia General Assembly or by
68 the City by resolution or ordinance pursuant to Chapter 61 or Chapter 62 of Title 36 of the
69 Official Code of Georgia Annotated. The members of exempt city boards, commissions,
70 authorities and similar bodies are exempt city officials or officials unless such member is

71 either an elected official of the City or is also a member of another city board, commission,
72 authority or similar body not specifically exempted by this ordinance or by law.

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

75 (i) *Interest*:

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

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

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

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

88 b. Funds received by the person from the other person or entity either during the
89 previous twelve (12) months equaled or exceeded five thousand dollars (\$5,000.00) in
90 salary, bonuses, commissions or professional fees, or ten (10) percent of the
91 recipient's gross income during that period, whichever is less; or

92 c. The person serves as a corporate officer or member of the board of directors or other
93 governing board of the for-profit entity other than a corporate entity owned or created
94 by the city council; or

95 d. The person is a creditor, debtor or guarantor of the other person or entity in an
96 amount of five thousand dollars (\$5,000.00) or more.

97 (4) *Substantial interest in real property* means an equitable or legal ownership interest in
98 real property with a fair market value of five thousand dollars (\$5,000.00) or more.

99 (j) *Ethics complaint* means a written document alleging a violation of this Article by a city
100 official or employee. All ethics complaints filed with the city shall contain the following:

101 (1) A brief statement specifically identifying the name and title of the city official or
102 employee against whom the complaint is filed. An ethics complaint may not allege
103 violations and/or seek action against more than one city official or employee;

104 (2) A numbered list separately identifying each improper act which the city official or
105 employee is alleged to have committed, including 1) the date of any such alleged
106 offense(s); 2) the specific section(s) of this Article that each act is alleged to be in
107 violation of; and 3) the factual basis for each alleged violation;

108 (3) A sworn and notarized statement by the complainant attesting that all information in the
109 complaint is true to the complainant's information and knowledge;

110 (4) Email address, phone number and mailing address where the complainant may be
111 contacted; and

112 (5) The complainant's residential address within the city limits.

113 (k) *Reprimand* means an official reproof, reprehension, or rebuke of a wrong. A reprimand shall
114 be effectuated by resolution of the mayor and council.

115 (l) *Respondent* means a city official or employee charged with a violation of this Article.

116 **Sec. 2-378. - Standards of conduct.**

117 (a) No city official or employee shall use such position to secure special privileges or
118 exemptions for such person or others, or to secure confidential information for any purpose
119 other than official responsibilities.

120 (b) No city official or employee, in any matter before the body in which he/she has a substantial
121 interest, shall fail to disclose for the common good for the record such interest prior to any
122 discussion or vote.

123 (c) No city official or employee shall act as an agent or attorney for another in any matter before
124 the city council or any city body.

125 (d) No city official or employee shall directly or indirectly receive or agree to receive any
126 compensation, gift, reward or gratuity in any matter or proceeding connected with, or related
127 to, the duties of his/her office except as may be provided by law.

128 (e) No city official or employee shall enter into any contract with the city except as specifically
129 authorized by state statutes. Any city official or employee who has a proprietary interest in
130 an agency doing business with the city shall make known that interest in writing to the city
131 council and the city clerk.

132 (f) All public funds shall be used for the general welfare of the people and not for personal
133 economic gain.

134 (g) Public property shall be disposed of in accordance with Georgia law.

135 (h) No city official or employee shall solicit or accept other employment to be performed or
136 compensation to be received while still a city official or employee if the employment or

137 compensation could reasonably be expected to impair in judgment or performance of that
138 official's or employee's city duties.

139 (i) If a city official or employee accepts or is soliciting a promise of future employment from
140 any person or entity who has a substantial interest in a person, entity or property which
141 would be affected by any decision upon which the official or employee might reasonably be
142 expected to act, investigate, advise, or make a recommendation, the official or employee
143 shall disclose the fact to the body on which he or she serves, or to his/her supervisor, and
144 shall take no further action or matters regarding the potential future employer.

145 (j) No city official or employee shall use city facilities, personnel, equipment or supplies for
146 private purposes, except to the extent such are lawfully available to the public.

147 (k) No city official or employee shall grant or make available to any person any consideration,
148 treatment, advantage or favor beyond that which it is the general practice to grant or make
149 available to the public at large.

150 (l) No city official or employee shall directly or indirectly solicit from a person or entity a gift,
151 loan, favor, promise, or thing of value for him/herself or another person or entity if the city
152 official or employee is, at the time of such solicitation, involved in any official act or action
153 which would result in a benefit to the person or entity from whom the gift, loan, favor,
154 promise or thing of value is solicited. However, the above prohibition shall not apply in the
155 case of:

156 (1) Occasional unsolicited non-monetary gift(s) and/or trinket(s) with a value of less than
157 one hundred dollars (\$100.00), such as a calendar, memento, pen, and/or admission to or
158 consumption of food and/or beverages at a function, social setting or event;

159 (2) An award publicly presented in recognition of public service;

160 (3) Any transaction authorized by and performed in accordance with O.C.G.A. § 16-10-6 as
161 now or hereafter amended;

162 (4) A commercially reasonable loan or other financial transaction made in the ordinary
163 course of business by an institution or individual authorized by the laws of Georgia to
164 engage in the making of such loan or financial transaction;

165 (5) Campaign contributions made and reported in accordance with Georgia laws;

166 (6) Items listed under O.C.G.A. § 16-10-2 that are specifically itemized as "a thing of value
167 shall not include" as now or hereafter amended; or

168 (7) Food, beverage or expenses afforded city officials or employees, members of their
169 families, or others that are associated with normal and customary business or social
170 functions or activities.

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

172 A city official or employee may not participate in a vote or decision on a matter affecting a
173 person in whom the official or employee has a Substantial Interest or a matter affecting any
174 property in which the official has a Substantial Interest in real property; in addition, a city
175 official or employee who serves as a corporate officer or member of a board of directors of a
176 nonprofit entity may not participate in a vote or decision regarding funding of the entity by or
177 through the city. Where the interest of a city official or employee in the subject matter or a vote
178 or decision is remote or incidental, the city official or employee may participate in the vote or
179 decision and need not disclose the interest.

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

181 The provisions of this Article shall not be construed to require the filing of any information
182 relating to any person's connection with, or interest in, any professional society or any charitable,

183 religious, social, fraternal, educational, recreational, public service, civil or political organization
184 not conducted as a business enterprise or governmental agency, and which is not engaged in the
185 ownership or conduct of a business enterprise or governmental agency.

186 **Sec. 2-381. - Severability.**

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

191 **Sec. 2-382. - Penalty.**

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

193 (1) Public reprimand and/or censure by the mayor and council;

194 (2) A fine greater than one hundred dollars (\$100.00) but less than five hundred dollars
195 (\$500.00); and

196 (3) Request for resignation by the mayor and council.

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

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

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

203 (c) To discourage the filing of complaints under this Article solely for political purposes,
204 complaints brought under this Article against a municipal election candidate filed sixty (60)
205 calendar days prior to the opening date of qualifying for municipal office through the date of

206 certification of the election results will not be acted upon until the election results for that
207 office have been certified. Deadlines under this Article shall be tolled during such period.
208 Action shall thereafter only be taken upon the ethics complaint if the candidate against
209 whom the complaint is filed is elected to that term of office.

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

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

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

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

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

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

228 The mayor and council shall hear and render decisions on all ethics complaints filed with the
229 city. A quorum for purposes of taking action upon an ethics complaint is the mayor and two
230 councilmembers. If the mayor is a respondent to the ethics complaint, three councilmembers
231 shall constitute a quorum. If less than three (3) councilmembers are available to constitute a
232 quorum, due to the provisions in section 2-388 and/or 2-389 of this Article, a mediator, certified
233 by the Georgia Commission on Dispute Resolution, at the mayor and council's discretion, shall
234 be substituted for the mayor and/or any councilmembers for purposes of acquiring a three (3)
235 person quorum. Ethics complaints shall be reviewed as follows:

236 (a) Preliminary review of ethics complaints:

237 (1) The city clerk shall schedule a meeting to occur within sixty (60) calendar days of an
238 ethics complaint's filing for the mayor and council to vote upon whether the complaint
239 will be dismissed or proceed to an evidentiary hearing, and shall mail notice of such
240 meeting to the complainant and the respondent at least thirty (30) days prior to such
241 meeting.

242 (2) The mayor and council may dismiss any ethics complaints that they determine is
243 unjustified, frivolous or patently unfounded; substantially noncompliant with the
244 requirements of this Article; or fails to state facts sufficient to invoke the disciplinary
245 jurisdiction of the city council. The city clerk shall mail to the complainant and
246 respondent the outcome of the preliminary review within five (5) calendar days of such
247 meeting.

248 (3) If the mayor and council determine that the ethics complaint should proceed to an
249 evidentiary hearing, the city clerk shall schedule such hearing to occur within thirty (30)
250 calendar days of the mayor and council's vote at the preliminary review.

251 (b) Evidentiary hearing on ethics complaints:

252 (1) Should an ethics complaint proceed to an evidentiary hearing, the complainant and the
253 respondent shall have the right to be represented by counsel; to hear, present and
254 examine the evidence and witnesses; and to oppose or try to mitigate the allegations. The
255 mayor and council may establish time limits, and other protocol, for the presentation of
256 evidence and argument.

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

259 (3) The city clerk shall mail to the complainant and the respondent the mayor and council's
260 final decision on the ethics complaint within five (5) calendar days of such decision.

261 (c) The mayor and council may vote to continue and/or postpone a scheduled meeting and/or
262 hearing on an ethics complaint to a later selected date, as necessary. The grounds and date
263 for the reset shall be stated in the official minutes for such meeting. The city clerk shall
264 email to the complainant and the respondent notice of the reset meeting date within five (5)
265 calendar days of such vote.

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

267 (a) After the filing of an ethics complaint, but at least five (5) days prior to the preliminary
268 hearing, or evidentiary hearing if one is set, the respondent and/or complainant may file a
269 charge of noncompliance with the city clerk, alleging that the complainant, respondent
270 and/or any city employee/official has failed to meet a required deadline under this Article.
271 This paragraph is strictly limited to grievances with respect to procedural deadlines set forth
272 under this Article, and may not be used to seek review of alleged ethics violations.
273 Additionally, a separate charge must be filed against each city employee and/or official who

274 is alleged to have violated a procedural deadline set forth under this Article. The charge
275 must identify the filer of the charge, the person against whom the charge is made, and the
276 alleged missed deadline.

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

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

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

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

295 (b) Should the mayor and council deny an ethics complaint on jurisdictional grounds, and/or
296 determine that the evidence does not establish that the respondent has committed a violation

297 of any provision of this Article, the complainant shall be barred from filing any subsequent
298 ethics complaint against the respondent arising from the same facts and circumstances as the
299 adjudicated complaint.

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

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

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

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

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

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

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

317 (a) No ethics complaint shall be permitted under this Article unless such complaint is filed
318 within six (6) months of the commission of the act complained of, provided, however, the
319 limitation shall be tolled during the period that the alleged offense is unknown to the

320 complainant. Under no circumstances, however, shall any period be tolled where the
321 complainant knew and/or should have known about the alleged violation and/or where the
322 facts surrounding the offense were published by a news outlet, discussed at a public meeting
323 and/or otherwise known to the general public.

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

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

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

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

333 **Section 2:**

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

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339 2. It is hereby declared to be the intention of the Mayor and City Council that, to the
340 greatest extent allowed by law, each and every section, paragraph, sentence, clause or
341 phrase of this Ordinance is severable from every other section, paragraph, sentence,
342 clause or phrase of this Ordinance. It is hereby further declared to be the intention of the
343 Mayor and City Council that, to the greatest extent allowed by law, no section, paragraph,
344 sentence, clause or phrase of this Ordinance is mutually dependent upon any other
345 section, paragraph, sentence, clause or phrase of this Ordinance.

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347 3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance
348 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise
349 unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is

STATE OF GEORGIA
DEKALB COUNTY
CITY OF STONECREST

ORDINANCE 2017-_____

350 the express intent of the Mayor and City Council that such invalidity, unconstitutionality,
351 or unenforceability shall, to the greatest extent allowed by law, not render invalid,
352 unconstitutional or otherwise unenforceable any of the remaining phrases, clauses,
353 sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed
354 by law, all remaining phrases, clauses, sentences, paragraphs and sections of the
355 Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.
356

357 4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith
358 are hereby expressly repealed.
359

360 5. The within ordinance shall become effective upon its adoption.
361

362 6. The provisions of this Ordinance shall become and be made part of The Code of the City
363 of Stonecrest, Georgia, and the sections of this Ordinance may be renumbered to
364 accomplish such intention.
365

366
367 **SO ORDAINED AND EFFECTIVE** this the 2 day of October, 2017.

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As to form:

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Thompson Kurrie, Jr., City Attorney

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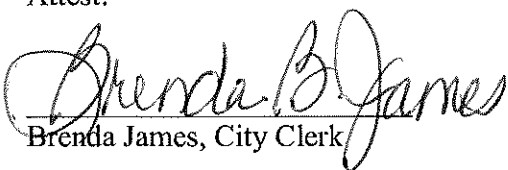
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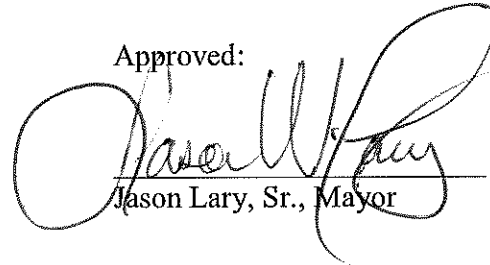
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Brenda James, City Clerk

Approved:


Jason Lary, Sr., Mayor