

Agenda Item

File ID: 2025-1113

Substitute

9/23/2025

Public Hearing: YES ☐ NO ☒

Department: Planning and Sustainability

SUBJECT: Application of the Director of the Department of Planning & Sustainability to amend Chapter 4 (Alcoholic Beverages) of the Code of DeKalb County, Georgia, as revised 1988, to ensure alignment with Georgia statutes, remove outdated provisions, remove redundant language, update section titles, and to revise applicable procedures.

Commission District(s): All districts

Petition No.: N/A.

Proposed Use: N/A.

Location: N/A.

Parcel No.: N/A

Information Contact: Brandon White, Dep. Director (Development Services)

Phone Number: 404-375-2155

PURPOSE:

While the initial text amendment proposal included a comprehensive update to Chapter 4 (Alcoholic Beverages), this substitute is scaled down to address a singular pressing update. This amendment adds the MR-2 Zoning District to the list of mixed-use zoning districts to which an exemption for restaurants already exists for the following zoning classifications: MU-1, MU-5, MU-4 provided they meet the existing land use definition of a restaurant in the *Zoning Ordinance* Chapter 27. The previous zoning designations were replaced in 2015, however, updates were not made to Chapter 4. The proposed change adds greater land use flexibility for establishments that sell and permit on-site alcohol consumption within mixed-use developments. Staff supports this amendment.

NEED/IMPACT: N/A

FISCAL IMPACT: N/A

RECOMMENDATION: Deferral to the 9/30/25 Board of Commissioners' Zoning meeting (decision only).

September 22, 2025

AN ORDINANCE

**AN ORDINANCE TO AMEND THE CODE OF DEKALB COUNTY, GEORGIA,
CHAPTER 4, PERTAINING TO ALCOHOLIC BEVERAGES, AND FOR OTHER
PURPOSES.**

WHEREAS, the Governing Authority of DeKalb County is tasked with the protection of the County's public health, safety, and general welfare; and

WHEREAS, O.C.G.A. § 3-3-21(a) establishes state-wide default minimum distance requirements for the retail sale of various types of alcoholic beverages, for either on-site or off-site consumption, from churches, schools, school grounds, college campuses and other educational facilities; and

WHEREAS, O.C.G.A. § 3-3-21(b)(3) authorizes counties to license retailers for the sale of alcoholic beverages for on-site consumption only, where the county imposes its own distance requirements from churches, schools and college campuses; and

WHEREAS, the Governing Authority of DeKalb County finds that, as it pertains to the MR-2 (Medium Density Residential - 2) zoning district, the existing distance requirements between retail establishments selling alcoholic beverages for on-site consumption only is unreasonably restrictive in discouraging commercial uses desired by the surrounding community; and

WHEREAS, DeKalb County desires to encourage desirable commercial uses while preserving the County's public health, safety and general welfare with regulations not stricter than necessary to accomplish said mission.

NOW, THEREFORE, BE IT ORDAINED by the Governing Authority DeKalb County, Georgia, and it is hereby ordained by the authority of same, that Chapter 4 of the Code of DeKalb County, Georgia, is amended to read as follows:

PART I. ENACTMENT

Section 4-101.1 is amended to read as follows:

Sec. 4-101.1. – Location restrictions.

- (a) No person knowingly and intentionally may sell or offer to sell at retail for off-site consumption, except as allowed under subsection (b) below or under article 3, division 2 (Emory Village Overlay District) of chapter 27:
 - (1) Any wine or malt beverages within one hundred (100) yards of any school building, school grounds, educational facility, college campus or adult entertainment establishment.
 - (2) Any distilled spirits in or within two hundred (200) yards of any residence or church or within two hundred (200) yards of any school building, school grounds, educational building, educational facility, college campus or adult entertainment establishment.
 - (3) Any distilled spirits, wine or malt beverages within two hundred (200) yards of an alcoholic treatment center owned and operated by this state or any county or municipal government therein.
- (b) No person knowingly and intentionally may sell or offer to sell for consumption on the premises, except as allowed under subsection (h):
 - (1) Any wine or malt beverages within one hundred (100) yards of any school, school grounds, educational facility or college campus;
 - (2) Any distilled spirits in or within two hundred (200) yards of any church or within two hundred (200) yards of any school building, school grounds, educational facility or college campus;
 - (3) Any distilled spirits, wine or malt beverages within two hundred (200) yards of an alcoholic treatment center owned and operated by this state or any county or municipal government therein.
- (c) The school building, school grounds, college campus, educational facility or educational building referred to in this section applies only to state, county, city, church school, day care, kindergarten or buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools and colleges of this state.
- (d) For the purpose of this section, distance shall be measured by the most direct route of travel on the ground. Every license application shall include a scale drawing of the location of the proposed premises, showing the distance of the uses described in this section and a certificate of a registered land surveyor or professional engineer that the location complies with these distance requirements.
- (e) No license in effect as of April 30, 1998, shall be revoked before its date of expiration or renewal or transfer denied by reason of the method of measurement set out in this section, if the license was granted in reliance on another method of measurement. No application for a license shall be denied by reason of the method of measurement set out in this section if a prior license for the same location was in effect on April 30, 1998. No application for a

license or renewal shall be denied by reason of the method of measurement set out in this section, if such application is pending on April 30, 1998.

(f) Where an existing licensed location is interfered with by government action under the power of eminent domain, and not by a voluntary act of the licensee, the licensed use may relocate elsewhere on the property, and the new building site will be treated as an existing non-conforming use eligible for license renewal for purposes of the distance requirements of this section.

(g) The school building, school grounds, educational building, educational facility and college campus distance requirements set forth in this section shall not apply to the sales of malt beverages and wine on property owned by the DeKalb County Board of Education and known as DeKalb County Memorial Stadium which is located within the boundary of Memorial College Avenue, Indian Creek Drive and Memorial Drive adjacent to campus of Georgia Perimeter College Clarkston ("the stadium"), when subject to the approval of the DeKalb County Board of Education, the stadium is being used for professional soccer games. The sale of malt beverages and wine shall be limited to sales within the boundaries of the stadium and not taken off of the stadium grounds.

(h) The distance restrictions contained in subsection (b) do not apply to a restaurant as that term is defined in chapter 27 of this Code, if the following conditions are satisfied:

(1) The restaurant must be located on property bearing the zoning district classification mixed use low density ("MU-1"), mixed use very high density ("MU-5"), mixed use high density ("MU-4"), or medium density residential-2 ("MR-2"), as those terms are defined in chapter 27 of this Code; or

(2) The restaurant must be located on property within an overlay district regulated in chapter 27 of this Code, except restaurants, if any, located in residential infill overlay districts as defined in chapter 27 of this Code; and

(3) Restaurants located in zoning districts identified in subsections (h)(1) and (2) that desire to offer alcoholic beverages for consumption on premises shall be situated at least fifty (50) feet from any pre-existing single-family detached dwelling as that term is defined in chapter 27 of this Code. This fifty-foot buffer shall be measured from the property line of the single-family detached dwelling to the side wall of the restaurant closest to that property line; and

(4) The distance restrictions contained in subsection (b) shall continue to apply to nightclubs and late-night establishments as those terms are defined in chapter 27 of this Code. The distance restrictions contained in subsection (b) shall continue to apply to restaurants, if any, located in residential infill overlay districts as defined in chapter 27 of this Code.

September 22, 2025

PART II. EFFECTIVE DATE

This ordinance shall become effective upon adoption by the Board of Commissioners and approval by the Chief Executive Officer.

PART III. SEVERABILITY

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the ordinance as a whole nor any part thereof other than the part so declared to be invalid or unconstitutional. All ordinances or resolutions, or parts thereof, in conflict with this ordinance are repealed.

ADOPTED by the DeKalb County Board of Commissioners, this ____ day of _____, 2025.

MICHELLE LONG SPEARS
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County, this ____ day of _____, 2025.

LORRAINE COCHRAN-JOHNSON
Chief Executive Officer
DeKalb County, Georgia

ATTEST:

BARBARA H. SANDERS-NORWOOD, CCC
Clerk to the Board of Commissioners and
Chief Executive Officer
DeKalb County, Georgia

APPROVED AS TO SUBSTANCE:

APPROVED AS TO FORM:

JULIANA A. NJOKU
Director of Planning and Sustainability
DeKalb County, Georgia

WILLIAM J. LINKOUS, III
County Attorney
DeKalb County, Georgia

September 22, 2025

AN ORDINANCE

**AN ORDINANCE TO AMEND THE CODE OF DEKALB COUNTY, GEORGIA,
CHAPTER 4, PERTAINING TO ALCOHOLIC BEVERAGES, AND FOR OTHER
PURPOSES.**

WHEREAS, the Governing Authority of DeKalb County is tasked with the protection of the County's public health, safety, and general welfare; and

WHEREAS, O.C.G.A. § 3-3-21(a) establishes state-wide default minimum distance requirements for the retail sale of various types of alcoholic beverages, for either on-site or off-site consumption, from churches, schools, school grounds, college campuses and other educational facilities; and

WHEREAS, O.C.G.A. § 3-3-21(b)(3) authorizes counties to license retailers for the sale of alcoholic beverages for on-site consumption only, where the county imposes its own distance requirements from churches, schools and college campuses; and

WHEREAS, the Governing Authority of DeKalb County finds that, as it pertains to the MR-2 (Medium Density Residential - 2) zoning district, the existing distance requirements between retail establishments selling alcoholic beverages for on-site consumption only is unreasonably restrictive in discouraging commercial uses desired by the surrounding community; and

WHEREAS, DeKalb County desires to encourage desirable commercial uses while preserving the County's public health, safety and general welfare with regulations not stricter than necessary to accomplish said mission.

NOW, THEREFORE, BE IT ORDAINED by the Governing Authority DeKalb County, Georgia, and it is hereby ordained by the authority of same, that Chapter 4 of the Code of DeKalb County, Georgia, is amended to read as follows:

PART I. ENACTMENT

Section 4-101.1 is amended to read as follows:

Sec. 4-101.1. – Location restrictions.

- (a) No person knowingly and intentionally may sell or offer to sell at retail for off-site consumption, except as allowed under subsection (b) below or under article 3, division 2 (Emory Village Overlay District) of chapter 27:
 - (1) Any wine or malt beverages within one hundred (100) yards of any school building, school grounds, educational facility, college campus or adult entertainment establishment.
 - (2) Any distilled spirits in or within two hundred (200) yards of any residence or church or within two hundred (200) yards of any school building, school grounds, educational building, educational facility, college campus or adult entertainment establishment.
 - (3) Any distilled spirits, wine or malt beverages within two hundred (200) yards of an alcoholic treatment center owned and operated by this state or any county or municipal government therein.
- (b) No person knowingly and intentionally may sell or offer to sell for consumption on the premises, except as allowed under subsection (h):
 - (1) Any wine or malt beverages within one hundred (100) yards of any school, school grounds, educational facility or college campus;
 - (2) Any distilled spirits in or within two hundred (200) yards of any church or within two hundred (200) yards of any school building, school grounds, educational facility or college campus;
 - (3) Any distilled spirits, wine or malt beverages within two hundred (200) yards of an alcoholic treatment center owned and operated by this state or any county or municipal government therein.
- (c) The school building, school grounds, college campus, educational facility or educational building referred to in this section applies only to state, county, city, church school, day care, kindergarten or buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools and colleges of this state.
- (d) For the purpose of this section, distance shall be measured by the most direct route of travel on the ground. Every license application shall include a scale drawing of the location of the proposed premises, showing the distance of the uses described in this section and a certificate of a registered land surveyor or professional engineer that the location complies with these distance requirements.

(e) No license in effect as of April 30, 1998, shall be revoked before its date of expiration or renewal or transfer denied by reason of the method of measurement set out in this section, if the license was granted in reliance on another method of measurement. No application for a license shall be denied by reason of the method of measurement set out in this section if a prior license for the same location was in effect on April 30, 1998. No application for a license or renewal shall be denied by reason of the method of measurement set out in this section, if such application is pending on April 30, 1998.

(f) Where an existing licensed location is interfered with by government action under the power of eminent domain, and not by a voluntary act of the licensee, the licensed use may relocate elsewhere on the property, and the new building site will be treated as an existing non-conforming use eligible for license renewal for purposes of the distance requirements of this section.

(g) The school building, school grounds, educational building, educational facility and college campus distance requirements set forth in this section shall not apply to the sales of malt beverages and wine on property owned by the DeKalb County Board of Education and known as DeKalb County Memorial Stadium which is located within the boundary of Memorial College Avenue, Indian Creek Drive and Memorial Drive adjacent to campus of Georgia Perimeter College Clarkston ("the stadium"), when subject to the approval of the DeKalb County Board of Education, the stadium is being used for professional soccer games. The sale of malt beverages and wine shall be limited to sales within the boundaries of the stadium and not taken off of the stadium grounds.

(h) The distance restrictions contained in subsection (b) do not apply to a restaurant as that term is defined in chapter 27 of this Code, if the following conditions are satisfied:

(1) The restaurant must be located on property bearing the zoning district classification ~~pedestrian community 1 ("PC-1")~~ mixed use low density ("MU-1"), ~~pedestrian community 2 ("PC-2")~~, ~~pedestrian community 3 ("PC-3")~~ mixed use very high density ("MU-5"), ~~office-commercial-residential ("OCR")~~ mixed use high density ("MU-4"), or medium density residential-2 ("MR-2"), as those terms are defined in chapter 27 of this Code; or

(2) The restaurant must be located on property within an overlay district regulated in chapter 27 of this Code, except restaurants, if any, located in residential infill overlay districts as defined in chapter 27 of this Code; and

(3) Restaurants located in zoning districts identified in subsections (h)(1) and (2) that desire to offer alcoholic beverages for consumption on premises shall be situated at least fifty (50) feet from any pre-existing single-family detached dwelling as that term is defined in chapter 27 of this Code. This fifty-foot buffer shall be measured from the property line of the single-family detached dwelling to the side wall of the restaurant closest to that property line; and

(4) The distance restrictions contained in subsection (b) shall continue to apply to nightclubs and late-night establishments as those terms are defined in chapter 27 of this Code. The distance restrictions contained in subsection (b) shall continue to apply to restaurants, if any, located in residential infill overlay districts as defined in chapter 27 of this Code.

September 22, 2025

PART II. EFFECTIVE DATE

This ordinance shall become effective upon adoption by the Board of Commissioners and approval by the Chief Executive Officer.

PART III. SEVERABILITY

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the ordinance as a whole nor any part thereof other than the part so declared to be invalid or unconstitutional. All ordinances or resolutions, or parts thereof, in conflict with this ordinance are repealed.

ADOPTED by the DeKalb County Board of Commissioners, this ____ day of _____, 2025.

MICHELLE LONG SPEARS
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County, this ____ day of _____, 2025.

LORRAINE COCHRAN-JOHNSON
Chief Executive Officer
DeKalb County, Georgia

ATTEST:

BARBARA H. SANDERS-NORWOOD, CCC
Clerk to the Board of Commissioners and
Chief Executive Officer
DeKalb County, Georgia

APPROVED AS TO SUBSTANCE:

APPROVED AS TO FORM:

JULIANA A. NJOKU
Director of Planning and Sustainability
DeKalb County, Georgia

WILLIAM J. LINKOUS, III
County Attorney
DeKalb County, Georgia