

**AN ORDINANCE TO AMEND CHAPTER 27 OF
THE CODE OF DEKALB COUNTY, GEORGIA,
AND FOR OTHER PURPOSES.**

WHEREAS, the Governing Authority of DeKalb County is tasked with the protection of the County’s health, safety, and general welfare, and the Board of Commissioners is authorized to exercise zoning powers;

WHEREAS, national studies show that certain land uses—including alcohol outlets, automobile gas stations, check cashing establishments, convenience stores, drive-through restaurants, and pawn shops—often negatively impact the health, safety, welfare, economic development, and social vitality of communities and neighborhoods; and

WHEREAS, local studies show that the concentration of certain land uses in DeKalb County—including alcohol outlets, automobile gas and service stations, check cashing establishments, and fast food restaurants—are associated with increased crime and lower median household income; and

WHEREAS, local studies show that a concentration of drive-through restaurants and automobile repair shops are associated with increased traffic accidents;

WHEREAS, the courts specifically recognize that a concentration of the same or similar businesses in close proximity increases the probability of business failure, which leads to abandoned property and diminished aesthetic and commercial appeal;

NOW THEREFORE, BE IT ORDAINED by the Governing Authority of DeKalb County, Georgia, and it is hereby ordained by the authority of same, that Chapter 27 of the Code of DeKalb County, as Revised 1988, is hereby amended as follows:

PART I. ENACTMENT

By amending Sections 4.1.1, 4.1.3, 4.2.8, 4.2.14, 4.2.18, 4.2.23, 4.2.28, 4.2.40, 7.4.6, and 9.1.3 of Chapter 27 of the Code of DeKalb County as Revised 1988, to read as follows:

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Sec. 27-4.1.1. Overview, findings, purpose.

- (a) **General Overview.** The regulations contained within this Article IV shall apply to all zoning districts within DeKalb County except as otherwise specified herein. Dimensions, site location and architectural requirements shall be indicated on required site development plans.
- (b) **General Findings and Purpose.** Certain land uses require the imposition of additional regulations to mitigate a range of negative impacts on the public health, safety, welfare as well as environmental, aesthetic, and infrastructure impacts.
- (c) **Findings and Purpose for Certain Land Uses.** National studies show that a concentration of certain land uses—including alcohol outlets, automobile gas stations, check cashing establishments, convenience stores, drive-through restaurants, and pawn shops—negatively impact the public health, safety, welfare, property values, economic development and social vitality of communities and neighborhoods. Local governments across the country recognize the negative impacts of such uses and impose additional regulations and distance requirements to mitigate such impacts.

Local studies, including the report “The Relationship Between SLUP6 Businesses and Negative Outcomes in DeKalb County” by Dean Dabney, Ph.D., confirm that these land uses within unincorporated DeKalb County are associated with increased crime, automobile accidents, lower property values, and other negative impacts to the public health and welfare.

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Sec. 27-4.1.3. Use Table.

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Note to codifier: please insert the use table attached hereto as Exhibit 1.

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Sec. 27-4.2.8. Alcohol outlets, package stores, beer growlers.

- (a) Package stores, unless part of a mixed use development, shall not be located:
 - (1) within one thousand (1,000) feet of an existing package store or alcohol outlet,

- (2) within six hundred (600) feet of any residence, church, school, school building or grounds, educational facility, college campus, or adult entertainment establishment, or
 - (3) within six hundred (600) feet of a substance abuse treatment center owned, operated, or approved by the state or any county or municipal government.
- (b) Alcohol outlets shall not be located:
- (1) within three hundred (300) feet of any school building, school grounds, educational facility, college campus, or adult entertainment establishment.
 - (2) within six hundred (600) feet of a substance abuse treatment center owned, operated, or approved by the state or any county or municipal government.
- (c) For the purpose of this section, distance shall be measured according to Sec. 4-101.1(d).
- (d) For alcohol sales as an accessory use to retail, the area devoted to the sale and storage of alcohol shall not exceed twenty percent (20%) of gross floor area.
- (e) The sale or distribution of individual cups and individual servings of ice at package stores is prohibited.
- (f) Alcohol outlets accessory to convenience stores with gas pumps do not require a special land use permit if the convenience store and gas pumps meet the criteria of Section 4.2.28(d).

~~— Video game machines are prohibited in alcohol outlets.~~

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Sec. 27-4.2.14. Automotive sales and service; boat, trailer sales and service

- (a) *Automobile and truck sales.* Where a lot is used for automobile or truck and trailer sales, all inventory vehicles parked outdoors shall be set back at least ten (10) feet from the street right-of-way. The ten-foot setback from the street right-of-way shall comply with Section 27-5.4.4(d)(3) of this chapter. No other unrelated retail use shall be on the same property or in the same building with automobile and truck sales. The automobile and truck sales lot shall be on a lot no less than one (1) acre in area.
- (b) *Automobile repair, major, and paint shops.* Major automobile repair and paint shops shall meet the following:
 - (1) Upon the minor redevelopment of existing structures, buildings, and physical appurtenances that requires a land development permit or building

permit, the director or his/her designee shall determine in his/her professional judgment whether any of the provisions of this section shall apply, but in no case shall such determination impose an extreme economic hardship upon the property owner. Any minor redevelopment of existing structures, buildings, and physical appurtenances is permitted by right if such changes result in greater conformity with the specifications of this section.

~~Existing structures, buildings, and physical appurtenances that do not conform to the provisions of this section may continue in the same form until a substantial modification occurs. For the purposes of this subsection, a substantial modification is any modification that would require a land disturbance permit and/or a building permit but the cost is no more than sixty percent (60%) of the fair market value of the building, structure, or appurtenance according to the DeKalb County Tax Assessor's valuation prior to such modification. Upon a substantial modification, the director or his/her designee shall determine in his/her professional judgment whether any of the provisions of this provisions of this section shall apply, but in no case shall such determination impose an extreme economic hardship upon the property owner by requiring the property owner to expend more than twenty percent (20%) of the fair market value of the building, structure or appurtenance prior to such substantial modification in order to comply. The modification, addition or redevelopment of existing nonconforming buildings, structures, and appurtenances is permitted by right if such changes result in greater conformity with the specifications of this section.~~

- (2) Shops shall not be permitted on property located within three hundred (300) feet of any property used for a ~~residence~~, school, park, playground or hospital.
- (3) All automobile repair activities must be contained entirely within an enclosed building, unless located in M (Light Industrial) District. For purposes of determining whether a building is enclosed, the use of open overhead bay doors that can be closed after business hours shall be permitted.
- (4) Vehicles awaiting service shall be parked on-site. If stored overnight, they shall be stored inside an enclosed building or in the side or rear yard enclosed with an opaque fence made of masonry or wood and at least six (6) feet in height.
- ~~(5)~~ Outdoor displays of merchandise shall be prohibited beyond ten (10) feet from the primary building and shall only be displayed during business hours.
- ~~(5)~~~~(6)~~ Overnight ~~O~~ outdoor storage of any materials, equipment, tires, or rims, ~~or vehicles~~ is prohibited.

~~(6)~~(7) New facilities must be designed with automobile bays facing away from the primary street frontage. ~~Bays that face residential property shall be closed during servicing of automobiles.~~

~~(7)~~(8) Junk vehicles shall not be stored on the property.

~~(8)~~(9) All parking located in front of the primary building shall be limited to customers seeking service only and not for storing vehicles overnight waiting to be repaired.

~~(9)~~(10) No automobile sales or curb stoning, which is the sale of used vehicles by unlicensed dealers, shall be permitted on the property.

~~(10)~~(11) For the purpose of this section, distance shall be measured by the most direct route of travel on the ground.

(c) *Automobile repair and maintenance establishments, minor.* Minor automobile repair and maintenance establishments shall meet the following:

(1) Upon the minor redevelopment of existing structures, buildings, and physical appurtenances that requires a land development permit or building permit, the director or his/her designee shall determine in his/her professional judgment whether any of the provisions of this section shall apply, but in no case shall such determination impose an extreme economic hardship upon the property owner. Any minor redevelopment of existing structures, buildings, and physical appurtenances is permitted by right if such changes result in greater conformity with the specifications of this section.

~~Existing structures, buildings, and physical appurtenances that do not conform to the provisions of this section may continue in the same form until a substantial modification occurs. For the purposes of this subsection, a substantial modification is any modification that would require a land disturbance permit and/or a building permit but the cost is no more than sixty percent (60%) of the fair market value of the building, structure, or appurtenance according to the DeKalb County Tax Assessor's valuation prior to such modification. Upon a substantial modification, the director or his/her designee shall determine in his/her professional judgment whether any of the provisions of this provisions of this section shall apply, but in no case shall such determination impose an extreme economic hardship upon the property owner by requiring the property owner to expend more than twenty percent (20%) of the fair market value of the building, structure or appurtenance prior to such substantial modification in order to comply. The modification, addition or redevelopment of existing nonconforming buildings, structures, and appurtenances is permitted by right if such changes result in greater conformity with the specifications of this section.~~

- (2) Operations, including the servicing of vehicles, storage of materials and similar activities connected with the use, must be contained entirely within an enclosed building. For the purpose of determining whether a building is enclosed, the use of open overhead bay doors that can be closed after business hours shall be permitted.
- (3) Vehicles awaiting service shall be parked on-site. If stored overnight, they shall be stored inside an enclosed building or in the side or rear yard enclosed with an opaque fence at least six (6) feet in height.
- (4) Outdoor displays of merchandise shall be prohibited beyond ten (10) feet from the building and shall only be displayed during business hours.
- (5) ~~Overnight~~ ~~Outdoor storage~~ ~~overnight~~ of any materials, equipment, tires, or rims, or vehicles is prohibited.
- (6) New facilities must be designed with automobile bays facing away from the primary street frontage.
- ~~(7)~~ Junk cars shall not be stored on the property.
- ~~(8)~~ No automobile sales or curb stoning, which is the sale of used vehicles by unlicensed dealers, shall be permitted on the property.
- ~~(6) and no curb stoning or selling of vehicles shall be allowed.~~
- ~~(7)~~ (9) All parking located in front of the primary building shall be limited to customers seeking service only.

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Sec. 27-4.2.18. Check cashing facilities.

The following provisions shall apply to all check cashing facilities:

- (a) Check cashing facilities, either as a primary use on its own lot or as part of a retail shopping center, shall not be permitted within one thousand (1000) feet of an existing check cashing facility or pawn shop. For the purpose of this section, distance shall be measured by the most direct route of travel on the ground.
- (b) The window and door area of any existing first floor façade that faces public street or sidewalk shall not be reduced, covered, or otherwise obscured nor shall changes be made to such windows or doors that block views into the building at eye level from the street or sidewalk.

(c) For new construction, at least thirty percent (30%) of the first floor façade that faces a public street or sidewalk shall be window or doors of clear or lightly tinted glass that allow views into the building at eye level from the street or sidewalk.

(d) The use of bars, chains, roll down doors, or similar security devices that are placed on the outside of the building is prohibited.

~~(d)~~(e) The use of light emitting diodes, neon lights, and illuminated panels placed on the outside of the building are prohibited.

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Sec. 27-4.2.23. - Drive-through facilities.

All drive-through facilities must comply with the following:

- (a) Drive-through facilities shall not be located within sixty (60) feet of a residentially zoned property, as measured from any menu or speaker box to the property line of the residential property, unless part of a mixed use development.
- (b) No drive-through facility shall be located on a property less than ten thousand (10,000) square feet in area, unless part of a mixed use development. Stacking spaces for queuing of cars shall be provided for the drive-through area as required in article VI.
- (c) Drive-through lanes and service windows serving drive-through lanes shall only be located to the side or rear of buildings. If on a corner lot, the pickup window shall be located on the side between the principal structure and a public street.
- (d) Drive-through canopies and other structures, where present, shall be constructed from the same materials as the primary building and with a similar level of architectural quality and detailing.
- (e) Speaker boxes shall be directed away from any adjacent residential properties and shall require masonry sound attenuation walls with landscaping or other speaker volume mitigation measures. Speaker boxes shall not play music but shall only be used for communication for placing orders.
- (f) All lighting from drive-through facilities shall be shaded and screened so as to be directed away from any adjacent residential property.
- (g) Stacking spaces shall be provided for any use having a drive-through facility or areas having drop-off and pick-up areas in accordance with the following

requirements. Stacking spaces shall be a minimum of ten (10) feet wide and twenty-five (25) feet long. Stacking spaces shall begin at the last service window for the drive-through lane (typically the "pick-up" window).

- (h) All drive-through facilities with the exception of drive-through restaurants shall provide at least three stacking spaces for each window or drive-through service facility.
- (i) The following standards shall apply to all stacking spaces and drive-through facilities:
 - (1) Drive-through lanes shall not impede on and off-site traffic movements, shall not cross or pass through off-street parking areas, and shall not create unsafe conditions where crossed by pedestrian access to a public entrance of a building.
 - (2) Drive-through lanes shall be separated by striping or curbing from off-street parking areas. Individual lanes shall be striped, marked or otherwise distinctly delineated.
 - (3) All drive-through facilities shall include a bypass lane with a minimum width of ten (10) feet, by which traffic may navigate around the drive-through facility without traveling in the drive-through lane. The bypass lane may share space with a parking access aisle.
 - (4) Drive-through lanes must be set back five (5) feet from all lot lines and roadway right-of-way lines.
 - (5) Owner and operator are responsible for daily litter clean-up to ensure the property remains free of trash, litter, and debris.
 - (6) Drive-through restaurants shall not be located within five hundred (500) feet of an elementary, middle or high school.
 - (7) Drive-through restaurants located in activity centers that meet at least two of the following criteria do not require a special land use permit:
 - a. Located within four hundred (400) feet of an intersection of a major arterial street and a major or minor arterial street.
 - b. Located within one thousand (1,000) feet of an interstate highway interchange do not require a special land use permit, but must meet the distance requirements from an intersection as described in subsection (7).

c. Are accessible only through inter-parcel access or through a shared driveway.

(8) Distance shall be measured from the right-of-way of the exit or entrance ramp, or street corner (middle of the radius), along the intersecting street right-of-way, to the nearest property line.

~~(8) Drive through restaurants in activity centers shall be accessed only through inter-parcel access or shared driveway.~~

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Sec. 27-4.2.28. Fuel pumps associated with large retail, convenience stores, gas stations, service stations.

(a) Upon the minor redevelopment of existing structures, buildings, and physical appurtenances that requires a land development permit or building permit, the director or his/her designee shall determine in his/her professional judgment whether any of the provisions of this section shall apply, but in no case shall such determination impose an extreme economic hardship upon the property owner. Any minor redevelopment of existing structures, buildings, and physical appurtenances is permitted by right if such changes result in greater conformity with the specifications of this section.

~~Existing structures, buildings, and physical appurtenances that do not conform to the provisions of this section may continue in the same form until a substantial modification occurs. For the purposes of this subsection, a substantial modification is any modification that would require a land disturbance permit and/or a building permit but the cost is no more than sixty percent (60%) of the fair market value of the building, structure, or appurtenance according to the DeKalb County Tax Assessor's valuation prior to such modification. Upon a substantial modification, the director or his/her designee shall determine in his/her professional judgment whether any of the provisions of this provisions of this section shall apply, but in no case shall such determination impose an extreme economic hardship upon the property owner by requiring the property owner to expend more than twenty percent (20%) of the fair market value of the building, structure or appurtenance prior to such substantial modification in order to comply. The modification, addition or redevelopment of existing nonconforming buildings, structures, and appurtenances is permitted by right if such changes result in greater conformity with the specifications of this section.~~

(b) Gas station and convenience store design shall comply with the design standards set forth in chapter 27 article 5 of this code.

(c) The following standards apply to all gas pumps:

- (1) The primary building (i.e., convenience store or automobile service station) shall ~~be exempt from conform to all~~ primary building setbacks; ~~except if~~ located in activity centers.
 - (2) Canopies covering gasoline pumps shall be set back not less than fifteen (15) feet from all street rights-of-way.
 - (3) Canopy height shall not exceed the greater of twenty (20) feet or the height of the principal building.
 - (4) Canopies and their columns shall be complementary to the overall color scheme and building materials scheme of the building façade to which the canopy is accessory.
 - (5) Canopy lighting shall not extend beyond the area immediately beneath the canopy and all fixtures shall be recessed, including any fixture or lens. Lighting shall project inward and downward, shall not have any spillover to adjacent properties, and shall cut off no later than thirty (30) minutes after closure of the facility.
 - (6) Automobile service stations with gas sales shall have a capacity to store one (1) car per bay (car area in front of a pump), so as not to interfere with driveway ingress and egress traffic flow.
 - (7) A minimum of thirty (30) feet is required between a gas pump and the nearest property line.
 - (8) Owner and operator are responsible for daily litter clean-up to ensure that property remains free of litter, trash, and debris.
 - (9) When a separate retail or restaurant use is located on the same property as fuel pumps, there shall be separate and distinct parking spaces for each use.
 - (10) The use of light emitting diodes, neon lights, and illuminated panels placed on the outside of the building are prohibited.
- (d) Fuel pumps associated with convenience stores, gas stations, and service stations ~~shall that~~ meet at least three of the following criteria do not require a special land use permit:
- (1) Facilities ~~may only be l~~located within four hundred (400) feet of an intersection of a major arterial street and a major or minor arterial street

~~(2)~~ Facilities ~~on property~~ located within one thousand (1,000) feet of an interstate highway ~~do not require a special land use permit.~~

~~(3)~~ Facilities accessible via direct and secondary access, either through a secondary street or by inter-parcel or other shared access.

~~(4)~~ New facilities of at least five thousand (5000) square feet or facilities that are part of a major redevelopment of an existing facility.

~~(2)~~~~(5)~~ Facilities include bathrooms capable of serving at least three (3) a time.

~~(3)~~~~(e)~~ Distance shall be measured from the right-of-way of the exit or entrance or street corner (middle of the radius), along the intersecting street right-of-way, to the nearest property line.

~~(4)~~ ~~Facilities with fuel pumps shall have secondary access either by direct access~~

~~(5)~~~~(f)~~ For new development located in an activity center, the primary building be located close to the street to define street edge. Pump islands shall not be located between the building and the street, and shall be placed behind the primary building. However, the Director, or his designee, may approve pumps located to one side of the building ~~if located at a corner~~, or if unique site presence of stream buffer, transitional buffer, topography, and other unique conditions as determined by the director.

~~(6)~~~~(g)~~ The façade of the primary building located closest to the street shall include architectural features and shall have an active entrance either on the side or rear, with clear unobstructed pedestrian access from the public sidewalk. The street façade shall have at least 25% fenestration or faux fenestration.

~~(7)~~~~(h)~~ Service areas, storage areas, and trash enclosure shall be oriented away from public view and screened from adjacent properties.

~~(8)~~~~(i)~~ Facilities must provide a two (2) foot high masonry wall with landscaping and/or an evergreen hedge to help screen the pumps from view from a public right of way.

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Sec. 27-4.2.40. Pawn shops.

The following provisions shall apply to all pawn shops:

(a) Pawn shops shall not be permitted within one thousand (1,000) feet of an existing pawn shop or check cashing facility. For the purpose of this section, distance shall be measured by the most direct route of travel on the ground.

- (b) The window and door area of any existing first floor façade that faces a public street or sidewalk shall not be reduced, covered, nor otherwise obscured, nor shall changes be made to such windows or doors that block one's view into the building at eye level from the street or sidewalk.
- (c) For new construction, at least thirty percent (30%) of the first floor façade that faces a public street or sidewalk shall be window or doors of clear or lightly tinted glass that allow a person to see into the building at eye level from the street or sidewalk.
- (d) The use of bars, chains, roll down doors or similar security devices that are placed on the outside of the building is prohibited.

~~(d)~~(e) The use of light emitting diodes, neon lights, and illuminated panels placed on the outside of the building is prohibited.

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Sec. 27-7.4.6. Special land use permit; criteria to be considered.

The following criteria shall be considered by the planning department, the planning commission, and the board of commissioners in evaluating and deciding any application for a special land use permit. No application for a special land use permit shall be granted by the board of commissioners unless satisfactory provisions and arrangements have been made concerning each of the following factors, all of which are applicable to each application, and the application is in compliance with all applicable regulations in Article IV:

- (a) Adequacy of the size of the site for the use contemplated and whether or not adequate land area is available for the proposed use including provision of all required yards, open space, off-street parking, and all other applicable requirements of the zoning district in which the use is proposed to be located.
- (b) Compatibility of the proposed use with adjacent properties and land uses and with other properties and land uses in the district.
- (c) Adequacy of public services, public facilities, and utilities to serve the proposed use.
- (d) Adequacy of the public street on which the use is proposed to be located and whether or not there is sufficient traffic-carrying capacity for the use proposed so as not to unduly increase traffic and create congestion in the area.

- (e) Whether existing land uses located along access routes to the site will be adversely affected by the character of the vehicles or the volume of traffic generated by the proposed use.
- (f) Adequacy of ingress and egress to the subject property and to all proposed buildings, structures, and uses thereon, with particular reference to pedestrian and automotive safety and convenience, traffic flow and control, and access in the event of fire or other emergency.
- (g) Whether the proposed use will create adverse impacts upon any adjoining land use by reason of noise, smoke, odor, dust, or vibration generated by the proposed use.
- (h) Whether the proposed use will create adverse impacts upon any adjoining land use by reason of the hours of operation of the proposed use.
- (i) Whether the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use.
- (j) Whether the proposed use is otherwise consistent with the requirements of the zoning district classification in which the use is proposed to be located.
- (k) Whether the proposed use is consistent with the policies of the comprehensive plan.
- (l) Whether the proposed use provides for all required buffer zones and transitional buffer zones where required by the regulations of the zoning district in which the use is proposed to be located.
- (m) Whether there is adequate provision of refuse and service areas.
- (n) Whether the length of time for which the special land use permit is granted should be limited in duration.
- (o) Whether the size, scale and massing of proposed buildings are appropriate in relation to the size of the subject property and in relation to the size, scale and massing of adjacent and nearby lots and buildings.
- (p) Whether the proposed use will adversely affect historic buildings, sites, districts, or archaeological resources.
- (q) Whether the proposed use satisfies the requirements contained within the supplemental regulations for such special land use permit.
- (r) Whether the proposed use will create a negative shadow impact on any adjoining lot or building as a result of the proposed building height.

(s) Whether the proposed use would be consistent with the needs of the neighborhood or the community as a whole, be compatible with the neighborhood, and would not be in conflict with the overall objective of the comprehensive plan.

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Sec. 27-9.1.3. Definitions.

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Alcohol outlet: A retail establishment that sells beer, malt beverages, hard cider and/or wine for off-site consumption. This includes grocery stores and retail stores less than 12,000 square feet that may sell beer, malt beverages, hard cider and/or wine for off-site consumption, as well as other products.

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Activity center: A character area designated by the Comprehensive Plan as a Regional Center, Town Center, or Neighborhood Center

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Beer growler: A retail alcohol outlet that pours ~~craft~~ beers from a tap into reusable containers for off-site consumption. This definition does not include distilled liquor sales.

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Junk vehicle: Any vehicle that is in such a state of disrepair as to be inoperable and does not bear a current license plate.

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Major intersection: The intersection of a major arterial street with a major or minor arterial street.

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Package store: A retail establishment that sells distilled spirits for off-site consumption.

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PART II. EFFECTIVE DATE

This ordinance shall become effective immediately on the date of 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 _____, 2017.

KATHIE GANNON
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County, this ____ day of _____, 2017.

MICHAEL THURMOND
Chief Executive Officer
DeKalb County, Georgia

ATTEST:

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

APPROVED AS TO FORM:

O.V. BRANTLEY
County Attorney

APPROVED AS TO SUBSTANCE:

ANDREW BAKER
Planning & Sustainability Director

~~February 14~~ April 4, 2017 Draft

DeKalb County, Georgia

DeKalb County, Georgia