

Agenda Item

File ID: 2022-2134

Substitute

9/27/2022

Public Hearing: YES NO

Department: Planning and Sustainability

COMMISSION DISTRICT(S): All Districts

SUBJECT: Small Box Discount Retail Store Moratorium Extension

INFO. CONTACT: Andrew Baker, AICP, Planning and Sustainability Director

PHONE NUMBER: 404-687-7154

PURPOSE:

To extend the moratorium on the acceptance, issuance, or denial of applications for the establishment or expansion of small box discount stores until February 28, 2023.

NEED/IMPACT:

To allow the Commissioners to continue to study the effects of small box discount stores and consider revisions to DeKalb County ordinances with respect to these establishments as more fully described in the attached resolution.

FISCAL IMPACT:

None.

RECOMMENDATION:

To approve the attached resolution.

RESOLUTION

**A RESOLUTION DECLARING A MORATORIUM
ON THE ACCEPTANCE OF APPLICATIONS RELATING TO THE
ESTABLISHMENT OR EXPANSION OF SMALL BOX DISCOUNT STORES.**

WHEREAS, on December 17, 2019, the Governing Authority of DeKalb County approved a Resolution imposing a moratorium (“Moratorium”) on applications related to the establishment or expansion of currently existing small box discount stores to study the effects of small box discount stores on the health, safety, and welfare of the County’s residents and businesses, and to consider appropriate action to address those effects;

WHEREAS, the December 17, 2019 Resolution indicated that the Moratorium will expire at 11:59 p.m. on January 31, 2020, unless shortened or extended by official action of the Governing Authority of DeKalb County;

WHEREAS, the Governing Authority approved a Resolution extending the Moratorium until 11:59 p.m. on July 29, 2020;

WHEREAS, the Governing Authority approved a Resolution extending the Moratorium until 11:59 p.m. on October 29, 2020; and

WHEREAS, the Governing Authority approved a resolution extending the Moratorium until 11:59 p.m. on January 31, 2021;

WHEREAS, the Governing Authority approved a resolution extending the Moratorium until 11:59 p.m. on April 30, 2021;

WHEREAS, the Governing Authority approved a resolution extending the Moratorium until 11:59 p.m. on August 31, 2021;

WHEREAS, the Governing Authority approved a resolution extending the Moratorium until 11:59 p.m. on October 31, 2021;

WHEREAS, the Governing Authority approved a resolution extending the Moratorium until 11:59 p.m. on January 31, 2022;

WHEREAS, the Governing Authority approved a resolution extending the Moratorium until 11:59 p.m. on May 31, 2022;

WHEREAS, the Governing Authority approved a resolution extending the Moratorium until 11:59 p.m. on July, 31, 2022;

WHEREAS, the Governing Authority approved a resolution extending the Moratorium until 11:59 p.m. on September 30, 2022;

WHEREAS, by enactment of this Resolution the Governing Authority of DeKalb County extends the Moratorium until 11:59 p.m. February 28, 2023, to continue to study the effects of small box discount stores on the health, safety, and welfare of the County's residents and businesses, and to consider appropriate action to address those effects.

NOW, THEREFORE, BE IT RESOLVED AND IT IS DECLARED BY THE GOVERNING AUTHORITY OF DEKALB COUNTY, GEORGIA, AS FOLLOWS:

1. The moratorium imposed herein incorporates the findings and statements set forth in the preceding "Whereas" clauses and such clauses are made a part of this Resolution.
2. For the purposes of this Resolution, "small box discount store" means a retail store that is 16,000 square feet or less in size, which offers for sale a variety of convenience shopping goods and continuously offers the majority of the items in their inventory for sale at a price lower than traditional retail stores. Small box discount store does not include stores that contain a pharmacy, sell gasoline or diesel fuel, or primarily sell specialty food items (i.e. meats, seafood, cheese, or oils and vinegars).
3. The Moratorium on the acceptance of any applications or the granting of any licenses or permits relating to the establishment of new small box discount stores or the expansion of currently existing small box discount stores, including any applications for alcohol licenses for such establishments, in unincorporated DeKalb County is set to expire at 11:59 p.m. on September 30, 2022, unless shortened or extended by official action of the Governing Authority.
4. By this Resolution, the Governing Authority hereby extends the Moratorium until 11:59 p.m. on February 28, 2023, unless shortened or extended by official action of the Governing Authority. The moratorium will expire by operation of law on the effective date of any text amendment regulating small box discount retail stores that

- may be adopted by the Governing Authority on or before February 28, 2023.
5. The Planning and Sustainability Department and the Law Department shall continue to finalize the zoning regulations based on the findings of the study and input from the Commissioners to minimize the effects of small box discount stores on the health, safety, and welfare of the County's residents and businesses.
 6. Nothing in this Resolution shall prevent the continued operation of any small box discount store that is operating lawfully as of the date of enactment of this Moratorium.
 7. Nothing in this Resolution shall prevent any small box discount store that is lawfully operating as of the date of enactment of this Resolution from relocating to a different location within the same site, when such relocation is necessary for the redevelopment of the larger site. Such relocation is only authorized for (1) redevelopment of a site consisting of at least 20 acres, or (2) redevelopment constituting a development of regional impact (DRI) and requiring review from the Department of Community Affairs (DCA).
 8. If any section, subsection, sentence, clause, phrase or other portion of this Resolution, or its application to any person, entity or circumstance, is held by a court of competent jurisdiction to be unconstitutional or invalid, the remainder of the Resolution, or application of the provision to other persons, entities or circumstances, shall not be affected.

ADOPTED by the DeKalb County Board of Commissioners, this _____ day of _____, 2022.

ROBERT J. PATRICK
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County, this _____ day of _____, 2022.

MICHAEL L. THURMOND
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:

ANDREW BAKER
Director of Planning and Sustainability

APPROVED AS TO FORM:

VIVIANE H. ERNSTES
County Attorney