



DeKalb County Department of Planning & Sustainability

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Planning Commission Hearing Date: July 12, 2022

Board of Commissioners Hearing Date: July 28, 2022

TEXT AMENDMENT ANALYSIS

AGENDA NO.: D1 **ZONING CASE NO.:** TA-21-1244279 **COMMISSION DISTRICTS:**
Countywide

APPLICANT: Department of Planning & Sustainability

SECTIONS OF ZONING ORDINANCE AFFECTED BY AMENDMENTS: CHAPTER 27, SECTION 4.2.60 (SUPPLEMENTAL REGULATIONS) TO ADD REGULATIONS TO ADDRESS SMALL-BOX DISCOUNT RETAIL STORES; SECTION 9.1.3 (DEFINED TERMS) TO CREATE A DEFINITION FOR SMALL-BOX DISCOUNT RETAIL STORE; TO AMEND SECTION 4.1.3 (USE TABLE) PERTAINING TO SMALL-BOX DISCOUNT RETAIL STORES; AND TO AMEND SECTION 4.2.28 (FUEL PUMPS ASSOCIATED WITH LARGE RETAIL, CONVENIENCE STORES, GAS STATIONS, SERVICE STATIONS) TO ESTABLISH DISTANCE SEPARATION STANDARDS BETWEEN SMALL-BOX DISCOUNT RETAIL STORES AND CONVENIENCE STORES.

REASON FOR REQUEST:

The moratorium passed by the DeKalb County Board of Commissioners in December 2019 and subsequently extended in January 2020, October 2020, January 2021, April 2021, August 2021, October 2021, January 2022, and May 2022 temporarily prohibits the establishment of any new, small box discount stores in the unincorporated areas of DeKalb County. The initial moratorium—and subsequent extensions—initiated the process of studying the effects of small box discount retail stores on the health, safety, and welfare of County residents and businesses. Staff contracted with Analytic Trial Consultants, LLC to perform the requisite study. The report, along with supplemental documents, have been made available to the Board of Commissioners, Planning Commission, the five community councils, and the public via the Planning & Sustainability webpage.

Based on the report’s findings, staff has begun addressing aspects that are suitable for inclusion into the *Zoning Ordinance*. The proposal introduces an official land use term, “small-box discount retail store” along with a definition as provided in the original moratorium resolution. Similar to other retail uses, this use is proposed as a permissible use in all mixed-use districts and commercial zoning districts (NS, C-1, C-2, and OD), excluding office and industrial districts (OI, OIT, M, M-2), subject to supplemental regulations.

The third part of the text amendment proposal consists of supplemental regulations that will comprise a new section, Section 4.2.60. Because these stores are typically found in distinct environments: shopping centers and standalone buildings, the proposal includes supplemental regulations based on these distinctions. One subsection shall apply to all small-box discount retail stores, another subsection shall apply to standalone stores, and the last subsection shall apply to stores within shopping centers and multi-tenant buildings.

It is the desire of the Board of Commissioners to adopt a legal and suitable set of regulations during this zoning cycle. However, following multiple meetings with business stakeholders, they would like a sixty-day (60-day) deferral for further consideration of proposed regulations. Staff recommends a deferral.

AN ORDINANCE

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

WHEREAS, the DeKalb County Board of Commissioners is authorized to adopt ordinances regulating land use for the public health, safety, and welfare;

WHEREAS, the Board of Commissioners recognizes that small box discount retail stores provide a valuable service to the residents and patrons of unincorporated DeKalb County but also exhibit negative relationships with public health, safety, and welfare;

WHEREAS, the Board of Commissioners approved a Resolution imposing a 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, county staff hired Analytic Trial Consultants, LLC to conduct a study of small box discount retail stores in unincorporated DeKalb County to evaluate the effects of those stores on public health, safety, and welfare;

WHEREAS, the study found that small box discount retail stores in unincorporated DeKalb County exhibit some negative relationships with public health, safety, and welfare; and

WHEREAS, the Board of Commissioners seeks to ameliorate those negative relationships with public health, safety, and welfare via the following text amendments to Chapter 27 of the Code of DeKalb County,

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 section 27-9.1.3, by amending the use table in section 27-4.1.3, by adding section 27-4.2.60, and by adding section 27-4.2.28(I) as follows:

Sec. 9.1.3. Defined Terms.

Small-box discount retail store: 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 its 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 including meats, seafood, cheese, or oils and vinegars.

Sec. 4.1.3. - Use table.

KEY:	SA - Special administrative permit from director of planning												
	SP - Special land use permit from BoC (SLUP)												
	P - Permitted use												
	Pa - Permitted as an accessory use												
Use	OI	OIT	NS	C-1	C-2	OD	M	M-2	MU-1	MU-2	MU-3	MU-4,5	See Section 4.2
Retail warehouses/wholesales providing sales of merchandise with no outdoor storage				P	P	P	P		P	P	P	P	
Shopping center			P	P	P	P			P	P	P	P	
Small-box discount retail store			P	P	P	P			P	P	P	P	✓
Specialty store			P	P	P	P			P	P	P	P	
Sporting goods or bicycle sale			P	P	P	P			P	P	P	P	

Thrift, secondhand, antique store				P	P		P						
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Sec. 4.2.60 Small-Box Discount Stores.

A. *Purpose and Findings.* Small box discount retail stores provide a valuable service to the residents and patrons of unincorporated DeKalb County but also exhibit some negative relationships with public health, safety and welfare. The county hired Analytic Trial Consultants, LLC, to study the relationships between small box discount retail stores and the public health, safety, and welfare in unincorporated DeKalb County. That study, dated _____, which is attached and incorporated herein by reference, found that small box discount retail stores in unincorporated DeKalb County exhibit some negative relationships with public health, safety, and welfare, especially when located in proximity to convenience stores. The Board of Commissioners seeks to ameliorate those negative relationships via the regulations contained in this ordinance.

B. The following regulations shall apply to all small box discount retail stores:

1. The use of bars, chains, roll down doors, or similar security elements over windows and doors is prohibited. No more than ten percent (10%) of window space may be covered by signs.
2. The entire premises, including areas designated for dumpsters and waste management equipment, shall be adequately illuminated from sunset to sunrise. A photometric lighting plan must be provided by the owner and approved by the planning director.
3. The entire premises, including the interior and exterior of the building, shall be monitored by surveillance cameras at all times.
4. Dumpsters and waste management equipment shall be enclosed by a fence, which shall be secured and locked when not in use.
5. A customer service phone number for reporting customer complaints related to business operations and property maintenance shall be posted and displayed inside and outside the establishment.
6. Currently existing small box discount retail stores must come into compliance with these regulations within one hundred and eighty (180) days of the effective date of this ordinance.

C. In addition to the regulations set forth in subsection (B), the following regulations shall apply to new, stand-alone small box discount retail stores established after {Note to clerk to please insert the effective date of this ordinance}:

1. No new, stand-alone small box discount retail store shall be permitted within one-half mile (i.e., 2,640 feet) of any existing small box discount retail store, or within one mile (i.e., 5,280 feet) of any currently existing convenience store. For purposes of this

subsection, distance shall be measured from the nearest property line of the subject property to the nearest property line of any property on which an existing small box discount retail store or convenience store is located. This provision shall not apply to any currently operating small box discount retail store relocating to a new building or new property within one thousand feet (1,000') of its current location.

2. At least thirty percent (30%) of any façade facing a public street shall include windows or doors made of glass or similar translucent material. No more than ten percent (10%) of window or door space shall be covered by signs.
3. A photometric (lighting) plan must be provided for new development, redevelopment, or change of tenancy.
4. New, stand-alone small box discount retail stores must comply with all applicable code provisions, including but not limited to the design standards set forth in article 5 of chapter 27 of this code.
5. A minimum of ten percent (10%) of sales floor area must be dedicated to the sale of fresh meats, fruits, vegetables, and dairy products.

D. The following regulations shall apply to new, small box discount retail stores located in shopping plazas or multi-tenant buildings established after {Note to clerk to please insert the effective date of this ordinance}:

1. No new, small box discount retail store in a shopping plaza or multi-tenant building shall be permitted within one-half mile (i.e., 2,640 feet) of any existing small box discount retail store, or within one mile (i.e. 5,280 feet) of any currently existing convenience store. For purposes of this subsection, distance shall be measured from the nearest property line of the subject property to the nearest property line of any property on which an existing small box discount retail store or convenience store is located. This provision shall not apply to any currently operating small box discount retail store relocating to a new building or new property within one thousand feet (1,000') of its current location.
2. No small box discount retail store shall be an anchor establishment within a shopping plaza.
3. Small box discount retail stores must co-locate with large, retail, anchor establishments of no less than 30,000 square feet or within planned, mixed-use developments.
4. A minimum of ten percent (10%) of sales floor area must be dedicated to the sale of fresh meats, fruits, vegetables, and dairy products.

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

- I. No new convenience store shall be permitted within one mile (i.e., 5,280 feet) of any currently existing small box retail discount store.

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

APPROVED AS TO FORM:

VIVIANE H. ERNSTES
County Attorney
DeKalb County, Georgia

APPROVED AS TO SUBSTANCE:

ANDREW BAKER
Director of Planning and Sustainability
DeKalb County, Georgia