



MEMORANDUM

TO: Decatur Planning Commission

FROM: Kc Krzic, Planning & Zoning Manager

DATE: May 2, 2024

SUBJECT: Proposed Text Amendments to Article 6 and 12 of the Unified Development Ordinance for Smoke/ Vape/ Tobacco Stores

The purpose of the memorandum is to present the proposed text amendments to Article 6 and 12 of the Unified Development Ordinance to create a commercial use of Smoke/ Vape/ Tobacco Stores. The proposed text amendments require approval by the City Commission with recommendation from the Planning Commission. The Planning Commission is requested to provide a recommendation at their public hearing held May 14, 2024 meeting, which will be forwarded to the City Commission for further consideration at their public hearing on May 20, 2024.

Background

Tobacco use is the leading preventable cause of death in Georgia and is a modifiable risk factor for many chronic diseases. Over the last few years, adult tobacco use in the state has steadily declined. However, alternative tobacco (e-cigarettes/ vapes) use rates have increased, particularly among youth.

The Georgia Department of Public Health, DeKalb Public Health, and other State and local agencies work diligently to prevent youth and adults from using and becoming addicted to tobacco products. E-cigarettes/ vapes come in colorful, fun, and unique product designs, along with many flavors, all of which come together as part of the attraction for youth who believe that these products are not addictive and are safe to use.

To promote healthy living, stop preventable diseases, and to further the goal of the Clean Air ordinance within the City of Decatur, staff has drafted this text amendment to define and regulate Smoke/ Vape/ Tobacco Stores.

Proposed Amendments at a Glance

The following is a summary of the revisions to the Unified Development Ordinance.

Sec. 6.2. – Allowed Use Table	Add new commercial use of Smoke/ Vape/ Tobacco Store
Sec. 6.5.11 – Retail Sales	Define Smoke/ Vape/ Tobacco Store, provide distance standards, how to measure such distances, and additional standards for such use
Sec. 12.1.1 – Defined Terms	Add new definitions

**Proposed Amendments to Article 6 and 12 of the
Decatur Unified Development Ordinance for Smoke/ Vape/ Tobacco Store**

1 **Article 6. – Use Provisions**

2 **Sec. 6.2. – Allowed Use Table**

	R-85	R-60	R-50	RS-17	RM-18	RM-22	RM-43	PO	NMU	C-1	C-2	C-3	MU	I	Def./Stds
Commercial Uses															
All retail sales, except as listed below:	—	—	—	—	—	—	—	—	L	P	P	P	P	—	6.5.11.
<u>Smoke/Vape/ Tobacco Store</u>	=	=	=	=	=	=	=	=	=	=	L	L	L	=	<u>6.5.11.C</u>
Key: P = Permitted Use L = Limited Use C = Conditional Use — = Not a Permitted Use															

3
4 **6.5.11. – Retail Sales**

5 **C. Smoke/ Vape/ Tobacco Store**

6 **1. Defined**

7 A retail establishment having 50 percent or more of its total display and/ or shelf area dedicated
8 to the retail sale of tobacco, tobacco products, or tobacco paraphernalia.

9 **2. Distance Standards**

10 Where Smoke/Vape/Tobacco Store is allowed as a limited use, it is subject to the following distance
11 requirements:

- 12 a. Smoke/Vape/Tobacco stores shall not be located within 1,000 feet of another
13 Smoke/Vape/Tobacco Store.
- 14 b. Smoke/Vape/Tobacco Stores shall be located a minimum of 300 feet from the following
15 uses.
 - 16 i. Day care center.
 - 17 ii. City or County recreation center, park, nature preserve, garden, or privately-owned
18 public open space.
 - 19 iii. Hospital.
 - 20 iv. Public library.
 - 21 v. Metropolitan Atlanta Rapid Transit Authority (MARTA) Station.
 - 22 vi. Public or private K-12 school.

23 **3. Measurement of Distances**

24 Unless otherwise provided by law, all measurements to determine distances required by
25 this section shall be measured by the most direct route of travel on the ground and shall
26 be measured in the following manner:

- 27 a. From the front door of the smoke/vape/tobacco store.
- 28 b. In a straight line to the nearest public sidewalk, walkway, street, road or highway.

**Proposed Amendments to Article 6 and 12 of the
Decatur Unified Development Ordinance for Smoke/ Vape/ Tobacco Store**

- 29 c. Along such public sidewalk, walkway, street, road or highway by the nearest route.
30 d. To the front door or primary entrance of the building or use.

31 **4. Additional Standards**

32 Where Smoke/Vape/Tobacco Store is allowed as a limited use, it is subject to the following:

- 33 a. No use or establishment can exceed a floor area of 2,000 square feet.
34 b. All allowed retail sales uses must be located on the ground floor.
35 c. Hours of operation can begin no earlier than 6 AM and end no later than 11 PM,
36 including all deliveries.
37 d. Drive-through or drive-up service is not permitted.
38

39 **Article 12. – Definitions**

40 **Sec. 12.1. – Defined Terms**

41 **12.1.1. - Generally**

42 **Privately-Owned Public Open Spaces (POPOS).** Publicly accessible spaces in forms of plazas,
43 terraces, atriums, small parks, and pedestrian corridors, which are provided and maintained by private
44 property owners pursuant to formal arrangement with the city, such as through an agreement, restrictive
45 covenant, or land use or zoning condition of approval.

46 **Smoke/Vape/Tobacco Store.** A retail establishment having 50 percent or more of its total display and/
47 or shelf area dedicated to the retail sale of tobacco, tobacco products, or tobacco paraphernalia, which
48 term includes retail tobacco stores. A grocery store or similar retail use that sells tobacco products or
49 tobacco paraphernalia as an ancillary sale is not included in this definition. A retail outlet issued a license
50 to dispense low THC oil and products to registered patients pursuant to O.C.G.A. § 16-12-206 is not
51 included in this definition.

52
53 **Tobacco Paraphernalia.** Any equipment, device, or instrument that is primarily designed or
54 manufactured for the smoking, chewing, absorbing, dissolving, inhaling, snorting, sniffing, or ingesting
55 by any other means into the body of tobacco, tobacco products, alternative nicotine products, and/or
56 consumable vapor products, as defined in O.C.G.A § 48-11-1. Items or devices classified as tobacco
57 paraphernalia include, but are not limited to, the following: pipes, punctured metal bowls, bongs, water
58 bongs, electric pipes, e-cigarettes, e-cigarette juice, buzz bombs, vaporizers, hookahs, and devices for
59 holding burning material.

60
61 **Tobacco Products.** Any product in leaf, flake, plug, liquid (such as e-cigarette liquid), or any other form,
62 derived from the tobacco or hemp plant, which is intended to enable human consumption of the tobacco
63 or nicotine in the product, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or
64 ingested by any other means.

**AN ORDINANCE TO AMEND ARTICLE 6 and 12 OF PART IV
OF THE CODE OF ORDINANCES
OF THE CITY OF DECATUR, GEORGIA**

WHEREAS, the City Commission adopted Ordinance O-14-Z-26 in November 2014, known as the Unified Development Ordinance, which required changes in the City of Decatur’s zoning and development regulations to implement the 2010 Strategic Plan; and

WHEREAS, the Unified Development Ordinance was codified as Part IV of the 1967 City Code; and

WHEREAS, the City Commission wishes to approve amendments to Article 6 of Part IV of the Code of Ordinances of the City of Decatur to regulate Smoke/ Vape/ Tobacco Stores; and

WHEREAS, said amendments will promote the morals, good order, security, prosperity, and the general welfare of present and future inhabitants of the City of Decatur; and

WHEREAS, required public hearings were held by the Planning Commission of the City of Decatur and the City Commission for the proposed changes to the text of the Unified Development Ordinance of the City of Decatur, all in compliance with the Zoning Procedures Law as well as the applicable provisions of the Unified Development Ordinance; and

NOW THEREFORE, BE IT ORDAINED by the City Commission of the City of Decatur, Georgia, and it is hereby ordained by the authority of the same, as follows:

SECTION 1.

Article 6 of Part IV, Section 6.2.- Allowed Use Table is amended as follows:

Item 1.

Add a Smoke/ Vape/ Tobacco Store in alphabetical order under Commercial Uses, to read as follows:

	R-85	R-60	R-50	RS-17	RM-18	RM-22	RM-43	PO	NMU	C-1	C-2	C-3	MU-1	I	Def./Stds
Commercial Uses															
All retail sales, except as listed	—	—	—	—	—	—	—	—	L	P	P	P	P	—	6.5.11.

below:																
Smoke/Vape/ Tobacco Store	—	—	—	—	—	—	—	—	—	—	L	L	L	—	6.5.11.C	
Key: P = Permitted Use L = Limited Use C = Conditional Use — = Not a Permitted Use																

SECTION 2.

Article 6 of Part IV, Section 6.5.11. – Retail Sales, as follows:

Item 1.

Add a new subsection C. Smoke/ Vape/ Tobacco Store, to read as follows:

C. Smoke/ Vape/ Tobacco Store

1. Defined

A retail establishment having 50 percent or more of its total display and/ or shelf area dedicated to the retail sale of tobacco, tobacco products, or tobacco paraphernalia.

2. Distance Standards

Where Smoke/Vape/Tobacco Store is allowed as a limited use, it is subject to the following distance requirements:

- a. Smoke/Vape/Tobacco stores shall not be located within 1,000 feet of another Smoke/Vape/Tobacco Store.
- b. Smoke/Vape/Tobacco Stores shall be located a minimum of 300 feet from the following uses.
 - i. Day care center.
 - ii. City or County recreation center, park, nature preserve, garden, or privately-owned public open space.
 - iii. Hospital.
 - iv. Public library.
 - v. Metropolitan Atlanta Rapid Transit Authority (MARTA) Station.
 - vi. Public or private K-12 school.

3. Measurement of Distances

Unless otherwise provided by law, all measurements to determine distances required by this section shall be measured by the most direct route of travel on the ground and shall be measured in the following manner:

- a. From the front door of the smoke/vape/tobacco store.
- b. In a straight line to the nearest public sidewalk, walkway, street, road or highway.
- c. Along such public sidewalk, walkway, street, road or highway by the nearest route.
- d. To the front door or primary entrance of the building or use.

4. Additional Standards

Where Smoke/Vape/Tobacco Store is allowed as a limited use, it is subject to the following:

- a. No use or establishment can exceed a floor area of 2,000 square feet.
- b. All allowed retail sales uses must be located on the ground floor.
- c. Hours of operation can begin no earlier than 6 AM and end no later than 11 PM, including all deliveries.
- d. Drive-through or drive-up service is not permitted.

SECTION 3.

Article 12 – Defined Terms of Part IV, Section 12.1.1.- Generally, is amended as follows:

Item 1.

Add a new terms in alphabetical order, to read as follows:

Privately-Owned Public Open Spaces (POPOS). Publicly accessible spaces in forms of plazas, terraces, atriums, small parks, and pedestrian corridors, which are provided and maintained by private property owners pursuant to formal arrangement with the city, such as through an agreement, restrictive covenant, or land use or zoning condition of approval.

Smoke/Vape/Tobacco Store. A retail establishment having 50 percent or more of its total display and/ or shelf area dedicated to the retail sale of tobacco, tobacco products, or tobacco paraphernalia, which term includes retail tobacco stores. A grocery store or similar retail use that sells tobacco products or tobacco paraphernalia as an ancillary sale is not included in this definition. A retail outlet issued a license to dispense low THC oil and products to registered patients pursuant to O.C.G.A. § 16-12-206 is not included in this definition.

Tobacco Paraphernalia. Any equipment, device, or instrument that is primarily designed or manufactured for the smoking, chewing, absorbing, dissolving, inhaling, snorting, sniffing, or ingesting by any other means into the body of tobacco, tobacco products, alternative nicotine products, and/or consumable vapor products, as defined in O.C.G.A § 48-11-1. Items or devices classified as tobacco paraphernalia include, but are not limited to, the following: pipes, punctured metal bowls, bongs, water bongs, electric pipes, e-cigarettes, e-cigarette juice, buzz bombs, vaporizers, hookahs, and devices for holding burning material.

Tobacco Products. Any product in leaf, flake, plug, liquid (such as e-cigarette liquid), or any other form, derived from the tobacco or hemp plant, which is intended to enable human consumption of the tobacco or nicotine in the product, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means.

SECTION 4.

This ordinance shall take effect immediately.

SECTION 5.

Should any ordinance or part thereof be found to conflict with this ordinance or the provisions thereof, then those sections contained herein shall be deemed controlling.

SO ORDAINED, this 20th day of May, 2024.

Signed: _____
Patti Garrett
Mayor

Attest: _____
Meredith Roark
City Clerk