

**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