

DEKALBCOUNTY

ITEM NO.	I3
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BOARD OF COMMISSIONERS

BUSINESS AGENDA / MINUTES

MEETING DATE: October 23, 2012

HEARING TYPE Action
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ACTION TYPE Resolution
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SUBJECT: Amendment to the DeKalb County Clean Indoor Air Ordinance

Commission Districts: County-Wide

DEPARTMENT:	Board of Health/BOC
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PUBLIC HEARING:	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
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ATTACHMENT:	<input checked="" type="checkbox"/> YES <input type="checkbox"/> No
PAGES:	<input type="text" value="5"/>

INFORMATION CONTACT:	Commissioner Larry Johnson Dr. Sandra Ford
PHONE NUMBER:	404-371-2988

Deferred 9/25/12

**PURPOSE:**

To amend the DeKalb County Clean Indoor Air Ordinance to address smoking in outdoor areas

**NEED/IMPACT:**

Secondhand smoke causes coronary heart disease, asthma attacks, heart disease, asthma attacks, heart attacks, stroke and lung cancer in adults and Sudden Infant Death Syndrome, middle ear infections, bronchitis, asthma, pneumonia and low birth weight in children. In addition, secondhand smoke causes roughly 7,500 to 15,000 annual hospitalizations among children 18 months or younger and secondhand smoke is especially dangerous to children whose bodies are still developing and who are particularly vulnerable to the poisons of secondhand smoke. With smoking and smoking-related illnesses being three of the five leading causes of death in DeKalb County, moving to prohibit smoking in outdoor areas frequented by children will help to reduce these statistics and serve as a means to improve health outcomes for residents and visitors to DeKalb County.

**RECOMMENDATION(S):**

Amend the DeKalb County Clean Indoor Air Ordinance to address smoking in outdoor areas

October 23, 2012  
12-17

**AN ORDINANCE  
AN ORDINANCE TO AMEND THE CODE OF DEKALB COUNTY, GEORGIA,  
CHAPTER 16, ARTICLE VI, PERTAINING TO SMOKING, AND FOR OTHER  
PURPOSES.**

**WHEREAS**, the Governing Authority of DeKalb County is authorized to adopt ordinances or regulations for the purpose of protecting and preserving the public health, safety, and welfare of the citizens of the county; and

**WHEREAS**, the Governing Authority has determined that smoking poses a threat to the health, safety, and welfare of the citizens, especially the children, of the county; and

**WHEREAS**, this ordinance, in part, seeks to prohibit smoking in those outdoor areas frequented by children; and

**WHEREAS**, this ordinance is intended to protect the health, safety, and welfare of county citizens by prohibiting smoking in county parking lots and in various other defined outdoor areas; and

**WHEREAS**, secondhand smoke causes coronary heart disease, asthma attacks, heart attacks, stroke and lung cancer in adults and Sudden Infant Death Syndrome, middle ear infections, bronchitis, asthma, pneumonia and low birth weight in children; and

**WHEREAS**, secondhand smoke causes roughly 7,500 to 15,000 annual hospitalizations among children 18 months or younger, and secondhand smoke is especially dangerous to children whose bodies are still developing and who are particularly vulnerable to the poisons of secondhand smoke; and

**WHEREAS**, most children are exposed to secondhand smoke at home, but they also may be exposed to secondhand smoke in school playgrounds and in other outdoor areas like parks, swimming pools, stadiums, and amusement parks; and

**WHEREAS**, over 12,000 DeKalb County residents were hospitalized for smoking-related illnesses in 2008, and three of the five leading causes of death in DeKalb County for persons 35 to 65 years of age are smoking related; and

**WHEREAS**, employees who work in places that maintain or implement smoke-free policies are nearly twice as likely to stop smoking as employees who work in places that allow smoking everywhere; and

**WHEREAS**, employers who eliminate smoking in the workplace report a dramatic decrease in the maintenance costs for their business; and

**WHEREAS**, normal ventilation cannot eliminate the health risks posed by secondhand smoke; and

**WHEREAS**, a non-smoker living with a smoker has a 90 percent greater risk of developing heart disease than a non-smoker living with a non-smoker; and

**WHEREAS**, nearly 39 percent of adults 18 to 44 years of age reported being exposed to secondhand smoke in a public place in 2011;

**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 16 of the Code of DeKalb County, as Revised 1988, is amended to read as follows:

### **PART I. ENACTMENT**

*Section 16-100 is deleted and a new Section 16-100 is inserted to read as follows:*

**Sec. 16-100. Title.**

This division shall be known, cited, and referred to as the DeKalb County Smoke-Free Air Ordinance.

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*Section 16-102 is amended to revise its introductory subsection and the definitions of "public place," "service line," and "smoking," and to add new definitions in alphabetical order, to read as follows:*

**Sec. 16-102. Definitions.**

Words or phrases not defined in this division, but defined in applicable state law or the Code of DeKalb County, as Revised 1988, shall be given that meaning. All other words or phrases shall be given their common ordinary meaning unless the context requires otherwise. The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them below except where the text clearly indicates a different meaning:

*Common area* means only those outdoor areas of apartments, condominiums, townhomes, residential subdivisions, rooming houses, retirement facilities, nursing homes, personal care homes, and other multi-unit residential property that are either commonly used or owned by its residents and intended for the common enjoyment of its residents, or accessible to residents of more than one dwelling located on the property. Common areas include but are not limited to outdoor recreational areas within a development, and common open space that is the central organizing feature of a development.

*E-cigarette* means any electronic oral device, such as one composed of a heating element, battery, and/or electronic circuit, that creates a vapor of nicotine and simulates smoking. This term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, or under any other product name or descriptive name.

*Outdoor recreational public place* means any outdoor area of a place to which the public is invited or in which the public is permitted that is used, or intended for use, as a recreational area, regardless of any fee or age requirement. The term "outdoor recreational public place" includes but is not limited to parks, picnic areas, playgrounds, athletic or sports fields, golf courses, walking paths, gardens, hiking trails, bike paths, horseback riding trails, swimming pool facilities, aquatic areas, water parks, skateboard parks, amusement parks, stadiums, amphitheaters, beaches, lakes, and outdoor areas of roller- and ice-skating rinks, concert venues, sports pavilions, gymnasiums, health spas, boxing arenas, bingo facilities, video arcades, pool halls, bowling facilities, amusement centers, and theaters.

*Playground* means any outdoor area that is used or designed to be used by children for recreation, including areas containing play or sports equipment or designated or landscaped for play or sports activities if such outdoor area is located in a common area, or on public or private elementary or secondary school grounds, or on property owned, leased, or operated by DeKalb County. A playground in the outdoor area of a private residence is not a playground regulated by this division.

*Public place* means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to restaurants, stores, waiting rooms, lobbies, reception areas, hallways, concession areas, public transit, restrooms, shopping malls, elevators, service lines, service stations, offices providing professional services, banks and other financial institutions, educational, recreational and health care facilities, childcare facilities, auditoriums, enclosed facilities in outdoor recreational public places, theaters, arenas, meeting rooms, repair shops, automobile dealerships, convention halls, and polling places. Porches, courtyards or decks with a contiguous connection to a public place shall be considered a public place. A private residence is not a public place unless it is used as a childcare facility, an adult daycare facility or a health care facility.

*Service line* means any indoor or outdoor line at which one (1) or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money, including but not limited to ATM lines, concert lines, food vendor lines, movie ticket lines, and sporting event lines.

*Smoking* means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, e-cigarette, oral smoking device, or pipe, or any other lighted or heated tobacco intended for inhalation, in any manner or in any form.

*Sections 16-103, 16-104 and 16-105 are deleted and new sections 16-103, 16-104 and 16-105 are inserted to read as follows:*

**Sec. 16-103. Prohibited smoking.**

Except as allowed in this division, smoking is prohibited in all public places, outdoor recreational public places, common areas, and places of employment.

**Sec. 16-104. Prohibition of smoking applicable to county property.**

Smoking shall be prohibited in all common areas, public places, places of employment, outdoor recreational public places, parking lots, and vehicles owned, leased, or operated by DeKalb County.

**Sec. 16-105. Reasonable distance.**

- (a) Smoking shall be prohibited within:
- (1) 20 feet of any outside entrance, operable window, or ventilation system of a common area, public place, place of employment, or outdoor recreational public place;
  - (2) 20 feet of outdoor seating or serving areas of restaurants; or
  - (3) 20 feet of any service line.
- (b) Smoking shall be allowed in the parking lot(s) of a common area, public place, place of employment, or outdoor recreational public place owned, leased or operated by anyone other than DeKalb County, except in the following situations:
- (1) Smoking in such parking lot(s) is prohibited if it occurs in an area of the parking lot that is within 20 feet of any outside entrance, operable window or ventilation system of a common area, public place, place of employment, or outdoor recreational public place.
  - (2) Smoking is prohibited in the parking lot(s) of a common area, public place, place of employment, or outdoor recreational public place if the owner, operator, manager, employer, or other person who controls the common area, public place, place of employment or outdoor recreational public place has posted in the parking lot(s) "No Smoking" signs that comply with the requirements of this division.

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*Section 16-108 is deleted and a new Section 16-108 is inserted to read as follows:*

**Sec. 16-108. Posting of signs and notification.**

- (a) At every entrance to every place where smoking is prohibited by this division, "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted by the owner, operator, manager, employer or other person having control of such building or area.

- (b) In every area where smoking is prohibited by this division, all ashtrays shall be removed by the owner, operator, manager, employer or other person having control of the area.
- (c) A copy of the DeKalb County Smoke-Free Air Ordinance shall be given to each applicant for a DeKalb County business license.

**PART II. EFFECTIVE DATE**

This ordinance shall become effective sixty (60) days after 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 2012.

*Larry L. Johnson*  
23 day of OCTOBER

**LARRY L. JOHNSON, MPH**  
Presiding Officer  
Board of Commissioners  
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County, this 2012.

25 day of October

*W. Burrell Ellis, Jr.*

**W. BURRELL ELLIS, JR.**  
Chief Executive Officer  
DeKalb County, Georgia

ATTEST:

*Barbara H. Sanders*

**BARBARA H. SANDERS, CCC**  
Clerk to the Board of Commissioners and  
Chief Executive Officer

APPROVED AS TO SUBSTANCE:

*S. Elizabeth Ford*  
**S. Elizabeth Ford, M.D., M.B.A.**  
Director, DeKalb County Board of Health

APPROVED AS TO FORM:

*Lisa E. Chang*  
**Lisa E. Chang**  
County Attorney