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11-0-1479

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AN ORDINANCE BY:

COUNCILMEMBER MICHAEL JULIAN BOND

AN ORDINANCE TO AMEND CHAPTER 10 (ALCOHOLIC BEVERAGES) OF THE CITY OF ATLANTA CODE OF ORDINANCES TO PROVIDE FOR THE REGULATION OF PACKAGE AND CONVENIENCE STORES; AND FOR OTHER PURPOSES.

AUTOMATICALLY TERMINATED AND FILED BY CLERK PER CHARTER SECTION 2-407 DEC 02 2013

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1ST ADOPT 2ND READ & REFER
- PERSONAL PAPER REFER

Date Referred: 10/03/2011
 Referred To: PS & Legal Admin
 Date Referred: _____
 Referred To: _____
 Date Referred: _____
 Referred To: _____

First Reading

Committee _____
 Date _____
 Chair _____
 Referred To _____

FINAL COUNCIL ACTION
 2nd 1st & 2nd 3rd
 Readings
 Consent V Vote RC

Committee	Committee
<u>ASLA</u>	
Date	Date
<u>10/12/11</u>	
Chair	Chair
Action	Action
Fav, Adv, Hold (see rev. side)	Fav, Adv, Hold (see rev. side)
Other	Other
Members	Members
Refer To	Refer To

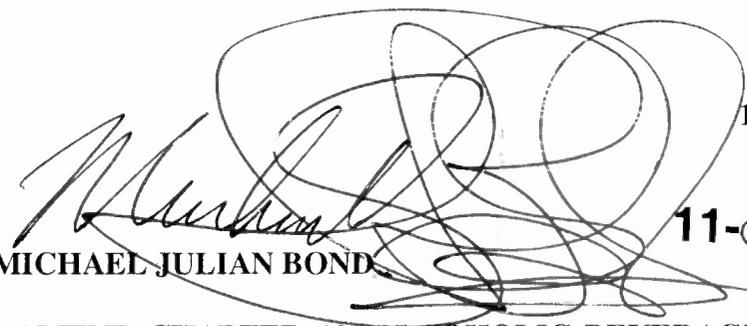
CERTIFIED
 DEC 02 2013
 ATLANTA CITY COUNCIL PRESIDENT
[Signature]

CERTIFIED
 DEC 03 2013
Ronda Dushkin Johnson
 MUNICIPAL CLERK

Committee	Committee
Date	Date
Chair	Chair
Action	Action
Fav, Adv, Hold (see rev. side)	Fav, Adv, Hold (see rev. side)
Other	Other
Members	Members
Refer To	Refer To

MAYOR'S ACTION

AN ORDINANCE BY:



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COUNCILMEMBER MICHAEL JULIAN BOND

11-0 -1479

AN ORDINANCE TO AMEND CHAPTER 10 (ALCOHOLIC BEVERAGES) OF THE CITY OF ATLANTA CODE OF ORDINANCES TO PROVIDE FOR THE REGULATION OF PACKAGE AND CONVENIENCE STORES; AND FOR OTHER PURPOSES.

WHEREAS, communities have expressed concern regarding the ease with which certain weapons, drug paraphernalia, as well as other inappropriate materials are distributed within the City; and,

WHEREAS, it has been determined that local package and convenience stores are often a primary source of the distribution of such materials and go on to become a focal point of criminal activity within various communities; and,

WHEREAS, the health, safety, and welfare of the citizens of the City of Atlanta will be positively impacted by the adoption of this ordinance.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS AS FOLLOWS:

Sec. XX-XX. – Drug Paraphernalia

(a) As used in this section, the following terms shall be ascribed the following meanings:

“Display” means to show to a patron or place in a manner so as to be available for viewing or inspection by a patron.

“Distribute” means to transfer ownership or a possessory interest to another, whether for consideration, as a gratuity, for consignment, or otherwise.

“Distribute” includes both sales and gifts.

“Drug paraphernalia” means any of the following:

1. Any item whether useful for non drug-related purposes or not, which is displayed, grouped with other items, advertised, or promoted in a manner to reasonably suggest its usefulness in the growing, harvesting, processing, manufacturing, preserving, inhaling, injecting or ingesting of marijuana, hashish, cocaine, or any controlled substance as defined in United States Code (21 USC §§ 801-971) as such now exist or may hereafter be amended;

2. Any item, whether useful for non drug-related purposes or not, which is designed, decorated or adorned in a manner to reasonably suggest its usefulness in the growing, harvesting, processing, inhaling, injecting, or ingesting of marijuana, hashish, cocaine, or any controlled substance as defined in United States Code (21 USC §§ 801-971) as such now exist or may hereafter be amended.
3. Any item defined by any statute of the state of Georgia as drug paraphernalia or by any statute of the United States Code (21 USC §§ 801-971) as drug paraphernalia.
4. The term "drug paraphernalia" includes, without limitation, all equipment, products, and materials of any kind, whether useful for non drug-related purposes or not, whose primary design function is for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body unlawful drugs, including, but not limited to, controlled substance. Such term includes, but is not limited to:
 - A. Kits used, intended for use, or designed for use in the planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance or unlawful drug can be derived.
 - B. Kits used, intended for use, or designed for use in the manufacturing, compounding, converting, producing, processing, or preparing of unlawful drugs.
 - C. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is an unlawful drug.
 - D. Testing equipment used, intended for use, or designed for use in identifying or analyzing the strength, effectiveness, or purity of unlawful drugs.
 - E. Scales and balances used, intended for use, or designed for use in weighing or measuring unlawful drugs.
 - F. Dilutants and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting unlawful drugs.

- G. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.

- H. Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding unlawful drugs.

- I. Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of unlawful drugs.

- J. Containers and other objects used, intended for use, or designed for use in storing or concealing unlawful drugs.

- K. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body such as:
 - 1. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes, with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - 2. Water pipes;
 - 3. Carburetion tubes and devices;
 - 4. Smoking and carburetion masks;
 - 5. Roach clips - meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
 - 6. Miniature cocaine spoons and cocaine vials;
 - 7. Chamber pipes;
 - 8. Carburetor pipes;
 - 9. Electric pipes;
 - 10. Air-driven pipes;
 - 11. Chilams;
 - 12. Bonges;
 - 13. Ice pipes or chillers;
 - 14. Wired cigarette papers; or
 - 15. Cocaine freebase kits

L. In determining whether an object is “drug paraphernalia,” the following logically relevant factors, may be considered:

1. Statement by an owner or by anyone in control of the object concerning its use;
2. The proximity of the object to controlled substances;
3. The existence of any residue of controlled substances on the object;
4. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver to persons whom he knows or reasonably should know intend to use the object to facilitate a violation of the laws of the state or the United States relating to controlled substances;
5. Descriptive materials or instructions, written or oral, accompanying the object, which explain or depict its use;
6. National and local advertising concerning its use;
7. The manner in which the object is displayed for sale, including its proximity to other objects falling within the definition of drug paraphernalia;
8. The existence and scope of legitimate uses for the object in the community; and
9. Expert testimony concerning its use, including testimony from law enforcement personnel regarding their knowledge and experience concerning its use;

“Patron” means a person who enters a business for the purpose of purchasing or viewing as a shopper for merchandise offered for sale at the business.

“Person” means a natural person or any firm, partnership, association, corporation or cooperative association.

(b) Display or Sale.

1. If a package or convenience store or the owner thereof maintains a license for the sale of alcoholic beverages pursuant to Chapter 10 of the Code of Ordinances it shall be unlawful for any person to maintain or operate any such package or convenience store where drug paraphernalia is also displayed or sold at such convenience store. Law Enforcement Officers and City officials charged with enforcing City ordinances may provide verbal or written notification to a package or convenience store that drug paraphernalia is on display or being sold. A package or convenience that receives such a notice shall have twenty-four (24) hours to remove from display all drug paraphernalia identified in the notice and shall immediately cease all sales upon receipt of said notice. Any display of drug paraphernalia subsequent to the expiration of the 24-hour period or any sale of drug paraphernalia following service of the notice shall constitute a rebuttable

presumption that the person or business has knowingly displayed or sold drug paraphernalia.

2. If a package or convenience store or the owner thereof maintains a license for the sale of alcoholic beverages pursuant to Chapter 10 of the Code of Ordinances it shall be unlawful for any person who is the owner of a package or convenience store, an employee thereof or who works at such convenience store as an agent of the owner to display or sell drug paraphernalia. Law Enforcement Officers and City officials charged with enforcing City ordinances may provide verbal or written notification to an employee, agent, or owner of the package or convenience store that drug paraphernalia is on display or being sold at the package or convenience store in violation of this ordinance. An employee, agent or owner that receives such a notice shall have twenty-four (24) hours to remove from display all drug paraphernalia identified in the notice and shall immediately cease all sales upon receipt of said notice. Any display of drug paraphernalia subsequent to the expiration of the 24-hour period or any sale of drug paraphernalia following service of the notice shall constitute a rebuttable presumption that the employee, agent or owner has knowingly displayed or sold drug paraphernalia.

Sec. XX-XXX. – Prohibition of Sale of Certain Weapons

(a) If a package or convenience store or the owner thereof maintains a license for the sale of alcoholic beverages pursuant to Chapter 10 of the Code of Ordinances, City of ~~College Park~~ ^{Atlanta}, Georgia, it shall be unlawful for such convenience store to display, sell or otherwise make available for purchase any dangerous knife, switchblade knife, ballistic knife, balisong knife, disguised knife, fighting knife, martial arts weapon or electrical weapon. *mfo*

(b) The following terms shall have the following definitions:

1. "Blade" has its usual and ordinary meaning and includes the shank.
2. "Dangerous knife" means any knife having a blade more than three and one-half inches in length or any dagger, sword, bayonet, bolo knife, hatchet, straightedge razor, or razor blade not in its package, dispenser, or shaving appliance.
3. "Electrical weapon" means:
Any portable device by whatever name (taser, stun gun, etc.) that is designed as a weapon capable of injuring or incapacitating an individual by the discharge of an electrical current.
4. "Fighting knife" means:
 1. Any knife with a handle or guard with spikes, serrations, sharp edges, or metal knuckles;
 2. Any knife that is designed for fighting or self defense and utilizes two or more blades at once;
5. A balisong knife. "Balisong knife" means a single- or double-edged blade knife which has a twopiece handle. The two halves of the handle sheathe the blade when it is

in the closed position. In the open position, the two halves of the handle form a haft. A balisong knife is also known as a butterfly knife.

6. A disguised knife. "Disguised knife" means any knife, blade, or pointed tool encased in or disguised as a writing pen or any knife, blade, or pointed tool encased in or disguised as a cane.
7. A ballistic knife. "Ballistic knife" means a knife with a detachable blade that is propelled by a spring-operated mechanism.
8. "Martial arts weapon" includes, but is not limited to, the following devices in common usage in what is known as the martial arts or arts of self-defense: Nuchaku (chako sticks), consisting of two or more lengths of wood, metal, plastic, or similar substance connected with wire, rope, or other means; throwing stars, which are multi-pointed, metal objects designed to embed upon impact from any aspect; ninja chains; sai; tonfa; three section staffs; spike balls; telescopic metal stick (telescopic police baton); jutte; and kama.
9. "Switchblade knife" means any knife having a blade that opens automatically by hand pressure applied to a button, spring mechanism, or other device, or a blade that opens, falls, or is ejected into position by force of gravity or by an outward, downward, or centrifugal thrust or movement.

Sec. XX-XXX. – Tobacco Products

- (a) It shall be unlawful for any person, firm or corporation to exhibit tobacco or tobacco-related products of any kind, shape or form at a height of less than sixty (60) inches from the floor level immediately in front of the display racks or shelves or, in the absence of shelves or bookracks, having a minimum shelf height of less than sixty (60) inches.
- (b) It shall be unlawful for any person, firm or corporation to exhibit tobacco or tobacco-related products of any kind, shape or form in front of the store counter.

Sec. XX-XXX. – Adult Materials

- (a) It shall be unlawful for any person, firm or corporation knowingly offering for sale adult books and/or magazines or any material covered by O.C.G.A. § 16-12-103 to exhibit, expose or display them on shelves, bookracks or other display devices at a height of less than sixty (60) inches from the floor level immediately in front of the display racks or shelves or, in the absence of shelves or bookracks, having a minimum shelf height of less than sixty (60) inches; adult books, magazines, movies or similar media shall be displayed on shelves behind the operator or the sales register or checkout counter; and any material covered by O.C.G.A. § 16-12-103, including any adult book or magazine cover thereof containing pictures, photographs or drawings of a person or portion of the human body, which depicts sexual conduct and which, taken as a whole, is harmful to minors shall not be open to public view.
- (b) It shall be unlawful for any package or convenience store that knowingly offers for sale adult books and/or magazines or any material covered by O.C.G.A. § 16-12-103 to also

sell beverages regulated under Chapter 10 of the Code of Ordinances.

Sec. XX-XXX. – Coin Operated Amusement Machines

- (a) It shall be unlawful for package or convenience stores to allow the sale of alcoholic beverages on their premises where coin-operated amusement machines are placed or kept on the premises for use or play by the general public, in accordance with Section X-XX.
- (b) Package or convenience stores must otherwise comply with the provisions of Chapter X.

Sec. XX-XXX. – Gambling in Package or Convenience Stores

- (a) A person commits the offense of gambling, as defined in O.C.G.A. § 16-12-20, when he or she:
 - (1) Makes a bet upon the partial or final result of any game or contest or upon the performance of any participant in such game or contest;
 - (2) Makes a bet upon the result of any political nomination, appointment, or election or upon the degree of success of any nominee, appointee, or candidate; or
 - (3) Plays and bets for money or other thing of value at any game played with cards, dice, or balls.
- (b) Except as otherwise provided for by law, a person who commits the offense of gambling in a convenience store shall be guilty of a violating the Code of Ordinances, and shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment in the city jail for not more than one hundred and eighty (180) days.

SECTION 5: That all ordinances and parts of ordinances in conflict herewith are hereby waived to the extent of that conflict.