

**CHAPTER 1**

**GENERAL PROVISIONS**

**LATEST REVISION:** November 13, 2018 (2018-077)

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**1.01 DEKALB MUNICIPAL CODE.**

- a) Title. This Code of Ordinances may be known and cited as the Municipal Code of the City of DeKalb, Illinois.
- b) Amendments. Any additions or amendments to this code are incorporated in this code so that a reference to the Municipal Code of DeKalb includes such additions and amendments.

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- c) Numbering of Sections. Each section number of this code shall consist of two component parts separated by a period referring to the chapter number and the figure after the period referring to the position in the section within the chapter.
- d) Numbering Additions. The decimal system shall be used for all additions and amendments to this code. When a chapter or section is added, the new chapter or section shall be given a decimal character.

**1.02 DEFINITIONS.**

- a) Terms used in this code, unless specifically defined in this code, have the meanings prescribed by the Illinois Compiled Statutes (ILCS) for the same terms.
- b) Terms used in this code have the following meanings:

City: City of DeKalb, Illinois.

County: DeKalb County.

State: State of Illinois.

City Council or Council: The City Council of DeKalb.

City Clerk: The City Clerk of the City of DeKalb, and similarly any reference to any officer, board or commission means such officer, board or commission of the City of DeKalb unless otherwise stated.

Person: Any natural individual, firm, partnership, trust, estate, club, association or corporation. As applied to partnerships or associations the word includes the partners or members thereof; as applied to corporations it includes the officers, agents or employees thereof who are responsible for the act referred to. The singular includes the plural, and the plural includes the singular. The masculine gender includes the feminine and neuter genders.

Illinois Compiled Statutes: The latest edition of the Illinois Compiled Statutes (ILCS).

**1.03 REPEAL OF ORDINANCES.**

- a) All general ordinances or parts thereof heretofore adopted by the Council and not included in this code are repealed, except the following which are hereby continued in full force and effect.
  - 1. Ordinances authorizing contracts or the issue of municipal notes or bonds;
  - 2. Ordinances levying taxes or making special assessments;

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3. Ordinances appropriating funds or establishing salaries;
  4. Ordinances granting franchises or rights to corporations;
  5. Ordinances relating to the establishment, dedication, opening, grade, naming, improvement, altering, widening or vacating of any streets, alleys or sidewalks, parks or public grounds;
  6. Ordinances respecting the annexation of territory to the city or the conveyance or acceptance of real property or easements in real property;
  7. Ordinance authorizing or relating to particular public improvements;
  8. Any other special ordinances not in conflict with the provisions of this code.
- b) The provisions of this code, so far as they are the same in substance as those of heretofore existing ordinances are continuations of such ordinances and not new enactments. Any act done, offense committed or right accruing or acquired, or liability, penalty, forfeiture or punishment incurred prior hereto shall not be affected, but may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if the repeal had not been effected.

**1.04 ORDINANCES REPEALED NOT REENACTED.**

No ordinance or part of any ordinance heretofore repealed shall be considered reordained or reenacted by virtue of this code, unless specifically reenacted. The repeal of any curative or validating ordinance does not impair or affect any cure or validation already effected thereby.

**1.05 JURISDICTION.**

Unless otherwise provided in this code, this code applies to acts performed within the corporate limits of the city. Provisions of this code also apply to acts performed outside the corporate limits and up to the limits prescribed by acts where the law confers power on the city to regulate such particular acts outside the corporate limits.

**1.06 PENALTIES.**

- a) Standard Penalty. Unless another penalty is specifically provided by this code for violations of any particular provision, section or chapter, any person violating any provision of this code, or any rule or regulation adopted or issued in pursuance thereof, or any provision of any code adopted herein by reference, shall upon conviction or Court Supervision be subject to a fine of not more than \$750, plus Court costs and the costs of prosecution. (2017-007)

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- b) Each Day of Violation. Each act of violation and each day upon which a violation occurs constitutes a separate offense.
- c) Applicability. The penalty provided by this section applies to the amendment of any section of this code or a code adopted herein by reference whether or not such penalty is reenacted in the amendatory ordinance.
- d) Reference to Sections. Reference to a section of this code shall be understood also to refer to and include the penalty section relating thereto, unless otherwise expressly provided.
- e) Failure of Officers to Perform Duties. The failure of an officer or employee of the city to perform an official duty imposed by this code shall not subject such officer or employee to the penalty imposed for violation of this code, unless a penalty is specifically provided in the section creating the duty. (1982-078)
- f) Court Supervision. Where any person violates a provision of this Code, the Court may, in addition to other reasonable conditions relating to the nature of the offense or the rehabilitation of the offender, impose a term of Court supervision. In the Order providing for such supervision, the Court may apply the following conditions:
  - 1. The Court shall order a specific period of time for each supervision and final entry of a conviction will be deferred until the conclusion of that period. During the period of supervision, the defendant shall be required to comply with any terms of sentencing imposed by the Court and shall be required to attend all regularly scheduled Court dates.
  - 2. The Court may require the defendant to meet any or all of the following conditions of supervision as it sees fit:
    - (a) Report to and participate with the Court or other person or social service agency;
    - (b) Pay a fine and costs;
    - (c) Undergo medical, psychological or psychiatric evaluation, treatment, or treatment for drug addiction or alcoholism;
    - (d) If a minor (in addition to any other conditions):
      - i. Reside with his parents or in a foster home;
      - ii. Attend school;

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- (e) Make restitution to the victim in an amount equal to any personal injury or property damage caused by the defendant. The Court shall determine the amount and conditions of payment;
  - (f) Perform public service work or community service;
  - (g) Not violate the laws of any state or municipality;
  - (h) Agree to correct an ordinance, code or regulatory violation within a specified period of time, to demolish an unsafe structure, or otherwise to remediate or address a pending legal violation;
  - (i) Not enter upon specified premises or locations and/or not have contact with specified persons that have a reasonable nexus to the defendant’s underlying unlawful conduct; or
  - (j) Such other conditions as the Court shall determine to be appropriate based upon the facts and circumstances of the case and the defendant’s present or past conduct.
3. If, at the conclusion of the period of supervision, the Court determines that supervision has successfully been completed, the Court shall discharge the defendant and enter a judgment dismissing the charges.
  4. If the defendant is found by the Court to have violated a condition of his supervision, the defendant may be resentenced by the Court.
  5. No person assigned to a public service employment program shall be considered an employee of the city for any purpose, nor shall the City be obligated to provide any compensation to such person. Any public service employment program, public work or community service assigned for completion pursuant to a Court Order of supervision pursuant to this Ordinance shall be considered “public or community service” for purposes of the immunities granted under the Probation Community Service Act, 730 ILCS 115/1, *et. seq.*, and the Tort Immunity Act, 745 ILCS 10/6A-105, or any similar or related statute, law or doctrine, and the Court, the City and the agency to which service is rendered shall be immune from liability arising out of the activities or injuries of the defendant in rendering such community service.
  6. Neither the state, the city, any local unit of government, nor any official or employee thereof acting in the course of his official duties shall be liable for any tortious acts of any person placed on supervision who is given any public service work as a condition of supervision.
  7. In the event that the Court utilizes a payment compliance date process wherein a defendant may avoid recurrent Court appearances by engaging in specific, Court-

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Ordered activity (such as the reporting of community service hours or the monthly deposit with the Court of specified payments towards costs of restitution or fines), such compliance date process shall toll the end date of such Court supervision indefinitely, pending further Order of Court.

8. In the event that the defendant fails to appear in Court on a scheduled Court date during the term of supervision, the dispatch of a final notice to appear, the issuance of a warrant, or the verbal or written filing of a petition to revoke Court supervision shall toll the end date of such supervision indefinitely, pending further Order of Court. Participation in the Court supervision program constitutes waiver of written notice or personal service of any verbal or written petition to revoke that is made on a scheduled Court date for such case. A defendant who receives Court supervision shall be obligated to provide and update the defendant’s address on record with the DeKalb County Circuit Clerk’s office and shall be obligated to receive and comply with Court Orders or notices dispatched by the Circuit Clerk at the direction of the Court.
9. At hearing upon a petition to revoke Court supervision, when conducted pursuant to the verbal or written motion of the City, after written notice has been mailed to the defendant, the Court may extend such period of supervision, may conclude the period of supervision with dismissal of the case (provided that all terms of sentencing have been complied with), may terminate the supervision and enter a conviction, may enter alternate sanctions against the defendant, or may Order such other or further relief as the Court shall deem appropriate.

**1.07 RESPONSIBILITY FOR ACTS.**

Every person concerned in the commission of an act prohibited by this code, whether he directly commits the act, or prosecutes, counsels, aids, or abets in its commission, may be prosecuted and on conviction is punishable as if he had directly committed such act.

**1.08 ARRESTS.**

The Mayor, City Manager, Council and members of the police force of the City of DeKalb, are severally authorized to arrest, with or without process, or on view, any person who shall break the peace, or be found violating any of the ordinances of the city, or any criminal law of the State of Illinois or of The United States, or aiding or abetting such violation, and it shall be their duty to arrest every person found under circumstances causing reasonable suspicion of such violation by him, and to take such person forthwith before the proper officer, or in case such arrest is made in the night, or on Sunday, to detain such person or persons in custody, over night or over Sunday in the city jail or any other safe place, until such person can be brought before the proper officer for trial.

### **1.09 SUMMONS AND WARRANT.**

In all actions for the violation of any city ordinance, the first process shall be a summons or a warrant. A warrant for the arrest of an accused person may be issued upon the affidavit of any person that an ordinance has been violated and that the person making the complaint has reasonable grounds to believe that the party charged is guilty thereof. Every person arrested upon a warrant, without unnecessary delay, shall be taken before the proper officer for trial.

### **1.10 ENFORCEMENT OF ORDINANCES.**

All actions brought to enforce any fine, imprisonment, penalty or forfeiture under any ordinance of the city, shall be brought in the corporate name of the city, as plaintiff. No prosecution, recovery, conviction or acquittal for the violation of any ordinance, shall constitute a defense to any other prosecution of the same party for any other violation of the same or any other ordinance, although the different causes of action existed at the same time, and, if united, would not have exceeded the jurisdiction of the court.

### **1.11 FINES PAID TO CITY TREASURER.**

All fines, forfeitures and penalties when collected, shall be paid to the City Treasurer within ten (10) days after the receipt thereof by the officer collecting the same.

### **1.12 MAIL-IN ORDINANCE VIOLATIONS.**

a) Persons over seventeen (17) years of age charged with violating certain City ordinances may resolve their case under the provisions set forth herein. The Chief of Police and City Manager shall be authorized to keep, maintain and periodically update a list of those Ordinance Violations which may be subject to the mail-in procedure. At minimum, this list shall include: (2001-039, 2008-001, 2012-074)

1. Entering/Remaining in a Tavern (38.21 h)
2. Possession/Consumption of Alcohol (38.21 f)
3. Open Container (38.13-2)
4. Fighting (52.01)
5. Barking Dog (18.07)
6. Noise Violation (52.35)
7. Noise Violation (52.36)

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8. Littering (43.02)
  9. Disorderly House (52.06)
  10. Fireworks (52.91)
  11. Possession of Cannabis (52.40) (2008-072)
  12. Possession of Drug Paraphernalia (52.410) (2008-072)
- b) Persons over fourteen (14) years of age charged with violating certain City ordinances may resolve their case under the provisions set forth herein. The Chief of Police and City Manager shall be authorized to keep and maintain a list of those Ordinance Violations which may be subject to the mail-in procedure. Any use of the mail-in process for a minor shall require the express, written consent of the parent or legal guardian of such minor. Such express, written consent shall be in a form prescribed by the City Attorney. Persons over fourteen (14) years of age who are emancipated minors shall be authorized to complete the mail-in process without requirement of parent or legal guardian consent, provided that their status as emancipated minors are documented to the satisfaction of the City Attorney. (2012-074)
- c) Persons charged with violating any of the provisions listed in subsection a) above or included on the list prepared by the Chief of Police and City Manager, may settle the complaint by remitting the minimum fine for such offense to the Legal Department of the City of DeKalb within twenty-one (21) days of the date of the offense and executing an acknowledgment of the settlement of the complaint and a waiver of their right to contest such complaint on a form prescribed by the City of DeKalb. Use of the mail-in process is optional, and not mandatory, for the Police Department. When a sworn police officer believes that a given offense should not be subject to the mail-in process, either because of severity of the offense or because of the offender’s alleged recidivism, such officer shall be permitted to issue a citation that is not subject to the mail-in process. (2008-001, 2012-074)
- d) Persons who fail to remit payment in settlement of the complaint within twenty-one (21) days of the date the complaint was issued or who wish to contest the allegations in the complaint, must appear in court on the date and location indicated on the complaint. (2012-074)
- e) In addition to being served with a complaint, persons who are eligible and are permitted to settle their complaint under the provision of this Section 1.12 will be given written information by the police officer regarding the procedures and requirements of settling their complaint as described above or how they may contest such complaint in a court of law. The Legal Department shall promulgate provisions for acceptable methods of payment and the location at which such payments can be made. (1993-034, 2008-072, 2012-074)

- f) The Chief of Police of the City of DeKalb is hereby authorized and empowered to enter into one or more intergovernmental agreements permitting police departments or sworn police personnel to issue City of DeKalb citations, to be prosecuted by the City of DeKalb, for eligible offenses allegedly occurring within the corporate limits of the City, on terms and conditions acceptable to him. The Chief of Police of the City of DeKalb is further authorized to temporarily or provisionally authorize sworn police personnel from a police department other than the City of DeKalb to issue City of DeKalb citations, to be prosecuted by the City of DeKalb, for eligible offenses allegedly occurring within the corporate limits of the City, without requirement of a written agreement, to address specific or discrete incidents or occurrences within the City. (2012-074)

### **1.13 PROVISIONS COVERING SAME OFFENSE.**

In all cases, where the same offense may be made punishable, or be created by different clauses, sections or ordinances, the court before which the cause is pending may require election by the city under which clause, section or ordinance to proceed, and no more than one recovery shall be had against the same person for the same offense.

### **1.14 NOTICES.**

Whenever in this code a notice is required or authorized to be given by any officer or official of the City, such notice shall be construed to be a personal notice and may be either verbal, written or printed, at the election of the officer or official giving the same, unless otherwise provided.

### **1.15 RECORDING ORDINANCES, PROOF OF PUBLICATION.**

All ordinances passed by the Council shall be filed in the office of the City Clerk and due proof of publication of any ordinance requiring publication shall be procured by the Clerk and shall be attached to and filed with the ordinance.

### **1.16 ORDINANCES, EFFECTIVE DATE.**

Any ordinance required by law to be published shall take effect ten days after due publication thereof, as required by law, and any ordinance not requiring publication shall take effect from and after passage and approval unless otherwise provided therein.

### **1.17 PUBLICATION OF ORDINANCES BOOK OR PAMPHLET FORM.**

Whenever the Council shall cause to publish in book or pamphlet form any ordinances of the city purporting to have been published by authority of the Council, such publication shall be the only publication necessary to be made of such ordinance. Such pamphlet or book shall have attached thereto the certificate of the City Clerk, under the corporate seal, certifying the pamphlet or book was published by authority of the Council; that the ordinances contained in such pamphlet or book are true and correct copies of the original

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ordinances passed by the Council; showing the dates of the passage and approval of such ordinances and stating that the City Clerk is the keeper of the original ordinances and that the same are on file in his office and recorded in the book of ordinances. Such pamphlet or book, when so published and certified, shall be received as evidence of the passage and legal publication of such ordinances, as of the dates mentioned in such book or pamphlet, in all courts and places without further proof.

**1.18 CIVIL LIABILITY.**

The recovery and payment of any fine, penalty or forfeiture for the violation of any ordinance of this City, shall not discharge the person who shall be guilty of such violation from liability to the city or any injured part in a private suit for such damages as the City or injured party may have sustained on account of such violation, and no such recovery or payment shall be construed to be a bar to any suit for the recovery of such damages, either by the city or by the person injured.

**1.19 SEPARABILITY OF PROVISIONS.**

Each section, paragraph sentence, clause and provision of this code is separable and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this code nor any part thereof, other than that part affected by such decision.

**1.20 EFFECTIVE DATE.**

This code of ordinances shall take effect ten (10) days after passage and publication in book form under the authority of the Council, as provided by law.

**1.21 COPIES ON FILE.**

Copies of this code shall be kept available at the City Clerk's office for public inspection.

**1.22 NON-DISCRIMINATION.**

It is the express policy of the City of DeKalb not to discriminate with regard to an individual's race, creed, color, gender, religion, age, national origin or ancestry, physical or mental disability, marital status, sexual orientation or any other protected classification in its services, programs, contracts and employment practices. (2015-036)

**1.23 COLLECTION OF FINES OR CHARGES.** (2018-077)

- a) Pursuant to the home-rule authority of the City of DeKalb and the authority conferred by virtue of the Illinois Constitution, the Illinois Municipal Code and Section 1-2-1 thereof, the City of DeKalb hereby authorizes and directs the Finance Director, with the concurrence of the City Manager, to determine which fines, penalties, accounts

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receivable, taxes, user charges, utility charges or other financial obligations which may be owed the City in any form or for any reason (collectively, “Debt”) should be considered for any form of collection. The Finance Director is authorized to submit any such Debt to any judicial or legal proceeding for collection, or to submit the Debt to a collection agency approved by the City Council for any form of civil debt recovery, or to submit the Debt to any program maintained by any other unit of government, including but not limited to the State of Illinois, for the purpose of Debt recovery (including but not limited to the Illinois Debt Recovery Offset Program). The Finance Director may adopt such rules and regulations as shall be necessary to effectuate this Ordinance, including but not limited to evaluating Debt on a per-class basis or case by case basis to determine its appropriateness for submission to a recovery methodology.

- b) Any costs incurred by the City by virtue of such collection activities or debt recovery program (including but not limited to collections fees, court costs, legal fees, staff costs, notice costs or any other costs whatsoever) shall be borne exclusively by the person(s) owing the Debt to the City, and shall be assessed against such person(s) as a charge due and owing to the City in addition to the underlying Debt. All such charges shall be required to be fully satisfied and extinguished before the Debt shall be released (and before any related enforcement methodology shall be released), except as provided in subsection (c) below.
- c) The Finance Director and/or City Manager, within their respective spending authority, shall have the authority to determine or declare that any Debt is not probable of recovery and to write-off such Debt or discontinue collection methodology. The Finance Director and/or City Manager, within their respective spending authority, shall also have the authority to compromise or settle any Debt or obligation owed the City, and to accept partial or liquidated payment in exchange for a partial or complete release thereof. Any individual Debt in excess of the aforesaid spending authority shall require the approval of the City Council to discharge or write-off. With regard to any case or action implemented as an action or administrative hearing which is prosecuted by the City Attorney, the City Attorney shall be authorized to settle, resolve or compromise any fine, penalty or other Debt imposed therein, without limitation, as a matter of prosecutorial discretion.