

AMENDING CHAPTER 52 “OFFENSES AGAINST PUBLIC PEACE – SAFETY AND MORALS”, SECTION 52.02 “DISORDERLY CONDUCT”, AND SECTION 52.411 “NUISANCE GATHERINGS”, OF THE MUNICIPAL CODE OF THE CITY OF DEKALB, ILLINOIS IN ORDER TO PROHIBIT THE VIOLATION OF EMERGENCY PUBLIC HEALTH ORDERS.

WHEREAS, the City of DeKalb (the “City”) is a home rule unit of local government which may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare, pursuant to Article VII, Section 6, of the Illinois Constitution of 1970; and

WHEREAS, the Governor of the State of Illinois has declared the existence of a disaster related to the COVID-19 public health emergency, issued emergency orders to prevent the spread of COVID-19, and empowered local governments to enforce said orders; and

WHEREAS, public health authorities have found that the public gathering of individuals who are not wearing proper face coverings or maintaining at least a six (6) foot social distance contributes to the spread of COVID-19; and

WHEREAS, the City’s Corporate Authorities find that the local enforcement of the State’s emergency public health orders protects the City’s public health, safety, morals and welfare; and

WHEREAS, the City’s Corporate Authorities find that it is in the best interests of the City’s welfare, public health, and safety to amend Chapter 52 “Offenses Against Public Peace – Safety and Morals”, Section 52.02 “Disorderly Conduct” and Section 52.411 “Nuisance Gatherings”, of the City’s Municipal Code as provided herein by this Ordinance; and

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF DEKALB, ILLINOIS:

SECTION 1: The recitals to this Ordinance are true, material, adopted, and incorporated herein as Section 1 to this Ordinance.

SECTION 2: The City’s Corporate Authorities adopt and approve an amendment to the Chapter 52 “Offenses Against Public Peace – Safety and Morals”, Section 52.02 “Disorderly Conduct” and Section 52.411 “Nuisance Gatherings”, of the City’s Municipal Code” to state in their entirety as follows:

52.02 DISORDERLY CONDUCT.

Prohibited conduct.

- a) A person commits disorderly conduct when that person knowingly:
 - 1. Does any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace; or
 - 2. Transmits in any manner to the Fire Department of the City a false alarm of fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists; or

3. Interferes with any fire apparatus, signal or mechanism used as a fire defense, or injures any wire connected with any fire box, of which is a part of an electric circuit connected with any fire box in the City, without prior permission of the Chief of the Fire Department; or
4. Transmits in any manner to another, a false alarm to the effect that a bomb or other explosive of any nature is concealed in such place that its explosion would endanger human life, knowing at the time of such transmission that there is no reasonable grounds for believing that such bomb or explosive is concealed in such place; or
5. Transmits in any manner to any peace officer, public officer or other employee of the City, a report to the effect that an offense, statutory or otherwise, has been committed, knowing at the time of such transmission that there is no reasonable grounds for believing that such an offense has been committed; or
6. Enters upon the property of another and for a lewd or unlawful purpose deliberately looks into a dwelling on the property through any window or other opening in it; or
7. Transmits in any manner to the police department or fire department of any municipality or fire protection district, or any privately owned and operated ambulance service, a false request for an ambulance, emergency medical technician-ambulance or emergency medical technician-paramedic knowing at the time there is no reasonable grounds for believing that such assistance is required; or
8. Carries, displays, brandishes or implies the possession or use, in a threatening or menacing manner, without authority of law, any: i) firearm, rifle, shotgun, machine gun, pistol, revolver, dagger, razor, dangerous knife, stiletto, knuckles, slingshot, billy, stun gun or taser, crossbow, common or compound bows, underwater speargun, black-jack, sand-club, sand-bag, throwing star, nunchakus, or any broken bottle or other piece of glass; ii) any air gun, air pistol, spring gun, spring pistol, BB gun, paint ball gun, pellet gun or any implement that is not a firearm which impels a breakable paint ball containing washable marking colors, or a pellet constructed of hard plastic, steel, lead or other hard materials with a force that reasonably is expected to cause bodily harm; or iii) any look-alike weapon which by its appearance, including shape, color, size, markings or lack thereof, or any other identifying physical characteristics, would lead a reasonable person to believe that the object is a weapon which could cause bodily harm, an object containing noxious or deleterious liquid, gas or substance or other dangerous weapon. A person also commits disorderly conduct when he is in possession of any item described in (ii) or (iii) of the preceding sentence while committing any other violation of City Code or federal or state law.
9. Fails to comply with any emergency public health or disaster order issued by the State of Illinois, County of DeKalb, or City of DeKalb to prevent the transmission of any contagious or infectious disease. A person who intentionally gathers with ten (10) or more persons without wearing a face covering or maintaining at least a six (6) foot social distance during the pendency of a disaster proclamation issued by the Governor of the State

of Illinois pertaining to the COVID-19 public health emergency shall be subject to a rebuttable presumption that s/he has committed the offense of disorderly conduct in violation of this Section unless the gathering was expressly permitted or exempted by the City Manager or an executive order issued by the Governor of the State of Illinois that was in effect at the time of the alleged violation.

- b) Penalties. Any person, eighteen (18) years of age or older and any firm or corporation violating this Section shall be guilty of a misdemeanor and shall be punished by a fine of not less than Three-Hundred Dollars (\$300.00) nor more than One-Thousand Dollars (\$1,000.00) and may be incarcerated in the DeKalb County Jail for a term not to exceed six (6) months under the provisions of Section 1-2-1.1 of the Illinois Municipal Code (65 ILCS 5/1-2-1.1) and under the provisions of the Illinois Code of Criminal Procedure (725 ILCS 5/100-1 et. seq.). Any person less than eighteen (18) years of age violating this Section shall be punished by fine only, community restitution services, or a combination thereof. Such person shall be fined not less than Three-Hundred Dollars (\$300.00) nor more than One Thousand Dollars (\$1,000.00) for each offense.

* * *

52.411 NUISANCE GATHERINGS.

- a) Definition. A Nuisance Party is a social gathering or party which is conducted within the City and, by reason of the conduct of persons in attendance, results in the occurrence of anyone (1) or more of the enumerated offenses.
- b) Enumerated Offenses; References to the DeKalb Municipal Code.
1. Unlawful carrying or possessing of an open container of alcohol or fermented malt beverage in public – Section 38.13-2.
 2. Public urination or defecation – Section 52.85.
 3. Unlawful sale, furnishing, possession or consumption of alcohol or fermented malt beverage – Section 38-21.
 4. Unlawful deposit of trash or litter – Sections 43.02, -.03, -.06, -.08, -.09, -.16.
 5. Parking on an unapproved surface.
 6. Destruction of property – Sections 52.15, 52.60.
 7. Generation of pedestrian or vehicular traffic, standing or parking which obstructs the flow of traffic or interferes with the ability to render emergency service – Chapter 51.
 8. Excessive, unnecessary or unreasonable noise which disturbs the comfort, quiet or repose of the neighborhood – Sections 52.05, -52.08, -52.35.
 9. Public disturbances, brawls, fights or threatening verbal quarrels;

10. Indecent or obscene conduct, and indecent exposure – Section 52.04; or

11. Disorderly Conduct – Section 52.02.

- c) Declaration of nuisance. A nuisance party shall be deemed to constitute a public nuisance. No person, who is an owner, occupant, tenant, or who otherwise has lawful possession or possessory control, individually or jointly with others, of any premises shall knowingly, negligently or recklessly allow a social gathering or party on said premises to become a nuisance party as defined in this section.
- d) Order to cease and disperse. A nuisance party shall cease upon the order of a police officer; and all persons not residing at the site of such nuisance party shall disperse immediately. No person shall knowingly or willfully fail or refuse to obey such an order.
- e) Penalty. Any person who fails to perform an act required by this section or who commits an act prohibited by this section shall be subject to a fine not less than Three-Hundred Dollars (\$300.00) for a first offense, and an increased fine for successive offenses.

SECTION 3: This ordinance and each of its terms shall be the effective legislative act of a home rule municipality without regard to whether such ordinance should (a) contain terms contrary to the provisions of current or subsequent non-preemptive state law, or (b) legislate in a manner or regarding a matter not delegated to municipalities by state law. It is the intent of the corporate authorities of the City of DeKalb that to the extent that the terms of this ordinance should be inconsistent with any non-preemptive state law, that this ordinance shall supersede state law in that regard within its jurisdiction.


SECTION 4: That City Clerk or the Executive Assistant be authorized to attest the Mayor's signature and that this ordinance shall be in full force and effect upon its passage and approval.

ADOPTED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a Regular meeting thereof held on the 14th day of September 2020 and approved by me as Mayor on the same day. Passed on First Reading by a 7-1 roll call vote. Aye: Finucane, Smith, Perkins, McAdams, Verbic, Faivre, Mayor Smith. Nay: Morris. Second Reading waived by a 7-1 roll call vote. Aye: Finucane, Smith, Perkins, McAdams, Verbic, Faivre, Mayor Smith. Nay: Morris.

ATTEST:



RUTH A. SCOTT, Executive Assistant



JERRY SMITH, Mayor

