

ORDINANCE 2022-057

PASSED: OCTOBER 24, 2022

AMENDING CHAPTER 36 “AMUSEMENTS”, SECTION 36.01 “AMUSEMENT DEVICES”, OF THE CITY OF DEKALB, ILLINOIS MUNICIPAL CODE TO PROHIBIT THE OPERATION OF ELECTRONIC PRODUCT PROMOTION KIOSKS.

WHEREAS, the City of DeKalb (the “City”) is a home rule unit of local government and may exercise any power and perform any function pertaining to its government and affairs pursuant to Article VII, Section 6, of the Illinois Constitution of 1970; and

WHEREAS, the City’s corporate authorities find that electronic product promotion kiosks are electronic gaming devices which offer a certificate, chance, opportunity, or sweepstake to obtain a monetary reward or purchase products for free; and

WHEREAS, the City’s corporate authorities find that electronic product promotion kiosks are not amusement devices allowed under the City’s Municipal Code; and

WHEREAS, the City’s corporate authorities find that electronic product promotion kiosks are essentially electronic video gaming devices which are not sufficiently prohibited, licensed, taxed, or regulated by current State laws or regulations; and

WHEREAS, the City’s corporate authorities find that the operation of electronic product promotion kiosks in places open to the general public constitute a public nuisance which substantially annoys and endangers the public health, morals and welfare of the City; and

WHEREAS, the City’s corporate authorities find that it is in the City’s best interests for the promotion of the public health, morals and welfare to amend Chapter 36 “Amusements” of the City’s Municipal Code to prohibit the operation of electronic product promotion kiosks as set forth in Exhibit A attached hereto and incorporated herein (the “Amendment”); and.

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

SECTION 1: The recitals to this ordinance are adopted and incorporated herein as Section One to this Ordinance.


SECTION 2: The City’s corporate authorities adopt and approve the Amendment as set forth in Exhibit A attached hereto and incorporated herein by reference.

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 City’s corporate authorities that to the extent this Ordinance is inconsistent with any non-preemptive state law, this Ordinance shall supersede state law in that regard within its jurisdiction.

SECTION 4: This ordinance shall be in full force and effect from and after its passage and approval as provided by law.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a Regular meeting thereof held on the 24th day of October 2022 and approved by me as Mayor on the same day. Passed on First Reading by an 8-0 roll call vote. Aye: Morris, Larson, Smith, Perkins, McAdams, Verbic, Faivre, Barnes. Nay: None. Second Reading waived by an 8-0 roll call vote. Aye: Morris, Larson, Smith, Perkins, McAdams, Verbic, Faivre, Barnes. Nay: None.





COHEN BARNES, Mayor

ATTEST:



Ruth A. Scott, Executive Assistant

CHAPTER 36 AMUSEMENTS

LATEST REVISION: August 26, 2013 (Ordinance 2013-050)

SECTIONS:

36.01 AMUSEMENT DEVICES.

36.02 AMUSEMENT HALLS, MOVIE THEATERS, SKATING RINKS, THEATERS, BOWLING ALLEYS: AMUSEMENT FACILITY LICENSE REQUIRED.

36.03 PENALTIES.

36.01 AMUSEMENT DEVICES.

- a) License Required. It shall be unlawful for any person to operate within the City an amusement device, either for gain or not, in any place of public resort, without a license therefor.
- b) Definitions.

"Amusement Device" shall mean any machine, apparatus, contrivance, appliance, or device which may be operated or played involving in its use either skill or chance, including, but not limited to, pool table, billiards, bumper pool, tape machine, card machine, pinball machine, bowling game machine, shuffleboard machine, marble game machine, horse racing machine, shuffleboard machine, basketball machine, baseball game machine, football game machine, dart game, electronic video game, or any other similar mechanical or electronic game machine or device. Amusement Device shall not include any video gaming device licensed pursuant to Chapter 38 of the City Code of Ordinances or an electronic product promotion kiosk prohibited pursuant to this Code.

"Proprietor" shall mean the person in whose place of business any such amusement device is placed for the use, amusement, patronage or recreation of the general public or members and guests of any club.

"Place of Public Resort" as used in this section shall mean any premises wherein any service or merchandise is offered for sale to the public or where tables or implements of any kind for playing any game of amusement are kept for use by the general public or by members and guests of any club.

"Person" shall mean any corporation, association, partnership, club, society or individual.

- c) License Fee. The fee for licenses under this Section 36.01 shall be Twenty-Five Dollars (\$25.00) per device per year or portion thereof. For an arcade, defined as a business consisting solely of Amusement Devices, an annual fee of Five Hundred Dollars (\$500.00) to cover thirty (30) or more devices. Applications for renewal shall be made no later than April 30th of each year. Renewal applications shall include a late fee of an additional Twenty-five Dollars (\$25.00) per device for each month or portion thereof submitted after April 30th. The term of licensure shall be from May 1 to April 30.
- d) Application for License. Application for licenses for any amusement device shall be made by the proprietor in whose place of business any such amusement device is placed for the use, amusement, patronage, or recreation of the general public or members and guests of a club and shall be signed by the applicant, if an individual; by a partner in the case of a partnership; or by an officer in the case of a corporation, club, association, or society, verified by oath or affidavit; and shall contain the following information:

1. The name, address, age, date and place of birth of the applicant, if an individual; the names, addresses, ages, and dates and places of birth of all general or limited partners, if a partnership; the names, addresses, ages, dates and places of birth of all officers and directors of the corporation, club, association or society, if a corporation, club, association or society.
 2. Prior convictions of the applicant for any violations of the gaming laws of the State of Illinois or any other State, or of any federal gaming laws.
 3. Place where machine or device is to be displayed or operated and the business conducted at that place, and a floor plan showing the information described below.
 4. Description of machine to be covered by the license, mechanical features, and name of manufacturer.
 5. Whether said machine is owned by applicant, and if not, the name and address of the owner thereof.
- e) Code Enforcement Inspection. All applications at the date of this Ordinance and all new applications shall be referred to the Director of Building and Community Services with a floor plan showing the following:
1. Square footage;
 2. Exiting (door locations);
 3. Seating arrangement;
 4. Amusement device locations;
 5. Aisle widths;
 6. Emergency and exit lighting;
 7. Bathroom locations;
 8. Schematic of electrical system-inclusive of floor plan; and,
 9. Fire extinguishers, alarms, fire suppression systems.

Any changes of the listed floor plan items shall be immediately reported to the Department of Building and Community Services. In the case of new applicants, submit to Department of Building and Community Services an application for a sign permit. If electrical or structural/wall work is to be completed, said work shall require compliance with all applicable codes, and acquisition of all required permits and permissions.

- f) Police Department Check. The Police Department shall investigate the location wherein it is proposed to operate such amusement devices, and determine and verify the information given by the applicant. Yearly inspection of the premises to verify appropriate number of licensed amusement devices will be the duty of the Police Department.
- g) City Manager Grants. The application shall be referred to the City Manager who shall grant or deny the license pursuant to this Section 36.01 of the Municipal Code. Licenses shall be issued by the City Clerk. No permit shall be issued to any person who is a debtor on any obligation of any form owed to the City of DeKalb, nor to any premises that lacks proper zoning or is in violation of any City Code.
- h) Display of License. The license or licenses herein provided for shall be posted prominently and conspicuously at the location of the amusement device(s) in the premises the device(s) is to be operated or to be maintained to be operated.

- i) Gambling. It shall be unlawful for any person owning, possessing or operating any amusement device (whether any of the above are electronic or otherwise) to permit said device or any scheme whatever to dispense any form of pay-off, prize, reward, certificate, promotion, or sweepstake, except for free games dispensed by the device. ~~and~~ Nothing in this Section 36.01 shall in any way be construed to authorize, license or permit any electronic product promotion kiosk, any gambling device whatsoever, or any mechanism which has been judicially determined to be a gambling device, or in any way contrary to the laws of the State of Illinois.
- j) Any facility that obtains an Amusement Device license shall be required to obtain and maintain a Fire Life-Safety license for their premises for all times that an Amusement Device license is in place.
- k) Any holder of an amusement license for an electronic product promotion kiosk shall be entitled to operate the licensed electronic product promotion kiosk pursuant to the applicable license issued; provided, however, that the license shall terminate upon the expiration of the applicable license term, no such license shall be subject to renewal, and the continued operation of an electronic product promotion kiosk shall be unlawful and prohibited by this Code.

36.02 AMUSEMENT HALLS, MOVIE THEATERS, SKATING RINKS, THEATERS, BOWLING ALLEYS: AMUSEMENT FACILITY LICENSE REQUIRED.

- a) It shall be unlawful to operate an amusement hall, dance club, bounce house, indoor-trampoline facility, indoor rock-climbing gym, movie theater, ice or roller-skating rink/alley/field, bowling alley (or bowling lanes), theater, or any other facility enclosed within a building which is used for athletic, amusement or recreational purposes with seating or occupancy limits in excess of 100 persons, without first obtaining an annual license to operate said facility. The license fee shall be \$250 per license year or portion thereof. In addition to the Amusement Facility License, the premises shall be required to obtain and maintain a valid Fire Life-Safety License. Amusement Facility License terms shall be coterminous with Fire Life-Safety Licenses (i.e., May 1 – April 30). Amusement Facility Licenses shall be made available on an application form acceptable to the City Manager. No permit shall be issued to any person who is a debtor on any obligation of any form owed to the City of DeKalb, nor to any premises that lacks proper zoning or is in violation of any City Code.
- b) Any facility with a license predating the passage of this Ordinance shall continue to operate under that license until April 30, 2014, but shall require a new Amusement Facility License and Fire Life-Safety License at that time.

36.03 PENALTIES.

A violation of any provision of this Ordinance shall be punishable by a fine of not less than Five Hundred Dollars, plus Court Costs. In addition, violators of this section shall be liable for restitution costs to the City of DeKalb and any other public entity that utilizes public employees to respond to any event or licensed facility to provide police, fire or other similar services.