

**ORDINANCE 2023-022**

**AMENDING CHAPTER 52 “OFFENSES AGAINST PUBLIC PEACE – SAFETY AND MORALS”, SECTION 52.02 “DISORDERLY CONDUCT”, SECTION 52.130 “PARENTAL RESPONSIBILITY”, AND SECTION 52.411 “NUISANCE GATHERING”, OF THE CITY OF DEKALB, ILLINOIS MUNICIPAL CODE.**

**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 Police Chief recommends amending the City’s Municipal Code to prevent recent incidents of fighting and other disorderly conduct committed primarily by minors as set forth in the attached and incorporated Exhibit A (the “Amendment”); and

**WHEREAS**, the City’s corporate authorities find that approving the Amendment is in the City’s best interests for the protection of the public health, safety, and welfare; and

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

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

**SECTION 2:** The City’s corporate authorities adopt and approve the Amendment to Chapter 52 “Offenses Against Peace – Safety and Morals” as set forth in the attached and incorporated Exhibit A;

**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 that the terms of this Ordinance should be 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 \_\_\_ day of \_\_\_\_\_ 2023 and approved by me as Mayor on the same day.



\_\_\_\_\_  
**COHEN BARNES, Mayor**

ATTEST:

\_\_\_\_\_  
Ruth A. Scott, Executive Assistant

**CHAPTER 52**  
**OFFENSES AGAINST PUBLIC PEACE - SAFETY AND MORALS**

LATEST AMENDMENT: October 24, 2022 (Ordinance 2022-055)

**SECTIONS:**

- 52.01 FIGHTING.
- 52.02 DISORDERLY CONDUCT.
- 52.03 ALCOHOL WITHOUT LIQUID (AWOL) MACHINES PROHIBITED.
- 52.03~~52.04~~ FAILURE TO PROVIDE IDENTITY FOR A VIOLATION NOTICE
- 52.05 CRIMINAL HOUSING MANAGEMENT.
- 52.06 DISORDERLY HOUSE.
- 52.07 SOUND APPARATUS.
- 52.08 NOISE IN PUBLIC PLACES.
- 52.10 FIREARMS AND AIR GUNS.
- 52.11 BURGLARS TOOLS.
- 52.12 BOWS AND ARROWS, CROSSBOWS.
- 52.15 INTERFERENCE WITH PUBLIC PROPERTY.
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- 52.37 THEFT OF CITY PROPERTY.
- 52.37-5 PROTECTION OF DEKALB PUBLIC LIBRARY MATERIALS.
- 52.39 CURFEW.
- 52.40 ASSAULT.
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- 52.60 CRIMINAL DAMAGE TO PROPERTY.
- 52.70 CRIMINAL TRESPASS TO REAL PROPERTY.
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- 52.200 ADULT USE - VIEWING BOOTHS.
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- 52.202 PHYSICAL LAYOUT OF BOOTHS AND PREMISES.
- 52.203 RESPONSIBILITIES OF THE OPERATOR.
- 52.204 ENFORCEMENT.
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- 52.300 TOBACCO USE, CONSUMPTION, POSSESSION BY MINORS.
- 52.400 POSSESSION OF CANNABIS.
- 52.410 POSSESSION OF DRUG PARAPHERNALIA.
- 52.411 NUISANCE GATHERING.

**TABLE OF AMENDMENTS**

## 52.01 FIGHTING.

No person shall physically fight with another person without legal justification. Any person violating this Section shall be punished by a fine of not less than Three-Hundred Dollars (\$300.00) nor more than Seven-Hundred Fifty Dollars (\$750.00) for each offense.

## 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, make, or aid in making a breach of the peace; or
2. Transmits or causes to be transmitted in any manner to the Fire Department of the City a false alarm of fire, knowing at the time of ~~such the~~ transmission that there is no reasonable ground for believing that ~~such the~~ 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 or causes to be transmitted in any manner to another, a false alarm to the effect that a bomb or other explosive of any nature or a container holding poison gas, a deadly biological or chemical contaminant, or radioactive substance is concealed in a such place ~~where that~~ its explosion or release would endanger human life, knowing at the time of such transmission that there ~~is are~~ no reasonable grounds for believing that ~~such the~~ bomb, ~~or~~ explosive, or a container holding poison gas, a deadly biological or chemical contaminant, or radioactive substance is concealed in the such place; or
5. Transmits or causes to be transmitted in any in any manner to any peace officer, public officer or public other employee ~~of the City~~, a report to the effect that an offense, ~~statutory or otherwise, will be committed, is being committed, or~~ has been committed, knowing at the time of such transmission that there ~~is are~~ no reasonable grounds for believing that the offense will be committed, is being committed, or ~~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 the such assistance is required; or

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, or any other similar weapon; 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; or:-

8. Transmits or causes to be transmitted in any manner a threat of destruction of a school building or school property, or a threat of violence, death, or bodily harm directed against persons at a school, school function, or school event, whether or not school is in session; or

9. Transmits or causes to be transmitted in any manner a false report to any public safety agency without the reasonable grounds necessary to believe that transmitting the report is necessary for the safety and welfare of the public; or

10. Calls the number "911" or transmits or causes to be transmitted in any manner to a public safety agency for the purpose of making or transmitting a false alarm or complaint and reporting information when, at the time the call or transmission is made, the person knows there is no reasonable ground for making the call or transmission and further knows that the call or transmission could result in the emergency response of any public safety agency; or

11. Does or makes any unreasonable or offensive act, utterance, gesture, or display that under the circumstances creates a clear and present danger of a breach of peace or imminent threat of violence; or

12. Assembles with three (3) or more persons for the purpose of using force or violence to disturb the public peace; or

13. Fails to obey a lawful order to disperse by a police officer, a fire department official, or any other individual who is authorized to give a dispersal order, who has identified himself as said individual or is reasonably identifiable as said individual, when one (1) or more persons are committing acts of disorderly conduct within the immediate vicinity and the public health and safety are imminently threatened; or

14. Remains in the public way in a manner that blocks customer access to a commercial establishment, after being asked to clear the entrance by the person in charge of such establishment, who has identified himself as said person or is reasonably identifiable as said person; or

15. Appears in any public place manifestly under the influence of alcohol, narcotics or other drug, not therapeutically administered, to the degree that said person may endanger said person or other persons or property, or annoy persons in said person's vicinity.

~~8. 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; provided, however, that said fine shall not be ~~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.

### **52.03 ALCOHOL WITHOUT LIQUID (AWOL) MACHINES PROHIBITED.**

- a) Definition: Alcohol Without Liquid Machine (AWOL): A device designed, manufactured, marketed, or used for the purpose of mixing alcoholic liquor with oxygen, air or another gas to produce a mist or vapor for inhalation or snorting for non-medicinal purposes. It shall not include such medical devices as inhalers, nebulizers, atomizers, or other devices properly prescribed by a physician and being used to dispense a prescribed medication to the holder of such prescription.
- b) It shall be unlawful to possess, sell, transfer, or use an Alcohol Without Liquid (AWOL) machine or device within the City of DeKalb.
- c) It shall be unlawful to use a medical device such as an inhaler, nebulizer, atomizer, or other device properly prescribed by a physician for the purpose of mixing alcoholic liquor with oxygen, air or another gas to produce a mist or vapor for inhalation or snorting for non-medicinal purposes within the City of DeKalb.
- d) Penalties. Any person violating these Sections 52.0, b) or c) shall be guilty of an offense and shall be punished by a fine of not less than Five-Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00) for each offense. The AWOL machine or device is subject to immediate seizure by the Police Department and destruction, upon order of the Circuit Court of DeKalb County.

### **52.04 FAILURE TO PROVIDE IDENTITY FOR A VIOLATION NOTICE**

A police officer or any other individual who is authorized to issue a violation notice under this Code, upon identifying themselves as a police officer or said authorized individual, may detain any person under circumstances which reasonably indicate that said person has committed, is committing or is about to commit a violation of this Code, for the purpose of ascertaining said person's identity to issue a violation notice as provided by this Code. Any person so detained shall identify themselves, but shall not be compelled to answer any other inquiry of any peace officer. Any person violating this Section shall be guilty of an offense punishable by a fine of not less than Five Hundred Dollars (\$500.00).

### **52.05 CRIMINAL HOUSING MANAGEMENT.**

- a) Criminal housing management. A person commits criminal housing management when, having personal management or control of residential or commercial real estate, whether as a legal or equitable owner or as a managing agent or otherwise, s/he recklessly permits the physical

condition or facilities of the residential or commercial real estate to become or remain in any condition which endangers the health or safety of any person.

A person acts "recklessly" within the meaning of this Section when s/he engages in any act or omission which shows an actual or deliberate intention to endanger the health or safety of any person or which, if not intentional, shows an utter indifference to or conscious disregard for the health or safety of any person. For example, a person may act "recklessly" within the meaning of this Section where s/he: (1) knows of a dangerous condition, or prior injuries caused by a condition, yet took no action to correct the condition; (2) intentionally removes a safety feature from the property despite the known danger of doing so; or (3) fails to take reasonable precautions when s/he knew or should have known of an extraordinary, impending, inherent, or unusual danger to the health or safety of any person.

A person does not act "recklessly" within the meaning of this Section when s/he is merely negligent, inadvertent, or unskillful. For example, a person may not act "recklessly" within the meaning of this Section where s/he: (1) maintains an inspection or tenant complaint system with due care, yet fails to discover the condition in a reasonable period of time to prevent or correct the condition; (2) exercises some precautions to protect the health and safety of any person, even though those precautions were insufficient; or (3) took reasonably prompt corrective action to remedy a condition, even though such action might have been ineffective.

The existence of a violation of any building code adopted by the City of DeKalb including, but not limited to, any building, property maintenance, fire, mechanical, electrical, and plumbing code adopted by the City of DeKalb, shall constitute prima facie evidence that the physical condition or facilities of the residential or commercial real estate became or remains in a condition which endangers the health or safety of any person within the meaning of this Section. A person may rebut such prima facie evidence by establishing that the condition does not constitute an actual, extraordinary, impending, inherent, or unusual danger to the health or safety of any person. The City shall always have the burden of proving that the condition endangers the health or safety of any person, but the City does not need to prove that the condition proximately caused an injury to any person.

It shall not be a defense to the violation prescribed by this Section that the real estate is vacant, unoccupied, condemned, boarded, or enclosed unless a person boards, encloses, or otherwise secures the real estate pursuant to the approval, direction, or permission of the City's Chief Building Official. Any action to enforce this Section shall be stayed and dismissed pending the respondent's compliance with a permit for demolition or rehabilitation issued by the City's Chief Building Official.

- b) Remedies. Upon finding that a person has committed criminal housing management, the City's Administrative Hearing Officer or the Circuit Court of DeKalb County shall order the following remedies:
- i. A mandatory minimum fine of \$1,000 per day for every day of the violation;
  - ii. A mandatory minimum fine of \$5,000 per day for every day of the violation for any person who has subsequently committed criminal housing management within one (1) year of any prior violation;
  - iii. An order requiring any person who owns, manages, or has any equitable interest in the real estate to remedy the violation;
  - iv. An order requiring any person who owns, manages, or has any equitable interest in the real estate to make restitution to any person whose health or safety was endangered

because of the violation including, but not limited to, actual relocation expenses, actual remediation expenses, actual medical expenses, and actual loss of earnings;

- v. An order allowing the City to inspect the real estate for compliance with the order to remedy the violation;
- vi. An order allowing the City to inspect the real estate for compliance with the City's ordinances and codes for a period of at least 1 year following the finding of a violation, provided that the City shall give at least 24-hour notice prior to any inspection;
- vii. An order allowing the City to remedy the violation and for the costs of said remediation including, administrative costs, attorney's fees, court costs, and other costs related to the enforcement of this Section, to be recoverable from any person who owns, manages, or has any equitable interest in the real estate as a lien on the real estate;
- viii. An order restraining any person who owns, manages, or has any equitable interest in the property, from collecting, receiving or benefiting from any rents or other monies available from the property, so long as the property remains in a condition which endangers the health or safety of any person; and
- ix. An order directing any person who owns, manages, or has any equitable interest in the property to pay any rents or other monies owed into an escrow account. The funds are to be paid out of the escrow account only to satisfy the reasonable cost of necessary repairs of the property which had been incurred or will be incurred in ameliorating the condition of the property which endangers the health or safety of any person, payment of delinquent real estate taxes on the property or payment of other legal debts relating to the property including, but not limited to, any debt owed as a result of a criminal housing management violation relating to the property. The order may provide that funds remain in escrow for a reasonable time after the completion of all necessary repairs to assure continued upkeep of the property and satisfaction of other outstanding legal debts of the property.

The owner shall be responsible for contracting to have necessary repairs completed by a contractor registered with the City, and the owner shall be required to submit all bills, together with certificates of completion, to the manager of the escrow account within 30 days after their receipt by the owner.

The City Manager or designee shall maintain and manage a separate trust account entitled "Property Improvement Trust Account", which shall serve as the depository for the escrowed funds prescribed by this Section. The City Manager or designee shall be responsible for the receipt, disbursement, monitoring and maintenance of all funds entrusted to this account. The City Manager or designee shall be authorized to promulgate rules and regulations to administer the provisions of this Section.

- c) Costs. As part of the costs of an action under this Section, there shall be assessed a reasonable fee against the respondent to be paid to the City of DeKalb to be used solely for the maintenance of the Property Improvement Trust Account. No money obtained directly or indirectly from the property subject to the case may be used to satisfy this cost.
- d) Retaliation Prohibited. No person who owns, manages, or has any equitable interest in the property shall retaliate against any person who complains or testifies about the alleged existence of any condition on the property which endangers the health or safety of any person, nor shall any rental agreement prohibit any such complaint or testimony. Any person who is found in violation of this subsection shall be subject to a mandatory minimum fine of \$1,000 and any such further relief to make whole any victim of the retaliation prohibited by this subsection.



- e) No private cause of action. This Section does not create or form the basis of a private cause of action against the City and its officers, employees, and agents, or any person who owns, manages, or has any equitable interest in the residential or commercial real estate. Nothing in this Section shall be construed to authorize tenants to refrain from paying rent. Nothing in this Section shall be construed to limit or alter any existing liability incurred, or to be incurred, by the owner or manager of the residential or commercial real estate. Nor shall this Section be construed to provide the exclusive remedy for the conduct proscribed herein.
- f) Remedial Purpose. The purpose of this Section is remedial and should be construed broadly to effect its remedial purpose.

#### **52.06 DISORDERLY HOUSE.**

- a) Disorderly House – Business. No person shall keep or maintain any place of business where any person is allowed or permitted to: make any loud or raucous noise clearly audible from fifty (50) feet or more from the place of business; alarm or disturb another so as to create a breach of the peace; or consume or possess alcohol, tobacco, cannabis, or synthetic alternative drugs in violation of this Code. A violation of this subsection shall be subject to fine in an amount that is not lesser than Three Hundred Dollars (\$300.00) and not greater than One Thousand Dollars (\$1,000.00).
- b) Disorderly House – Residential. No person, whether such person is an owner, renter, or otherwise responsible for, in custody of, or entrusted with a given dwelling unit or residential property, is allowed or shall be permitted to: make any loud or raucous noise clearly audible from fifty (50) feet or more from the residence: alarm or disturb another so as to create a breach of the peace; consume or possess alcohol, tobacco, cannabis, or synthetic alternative drugs in violation of this Code. The following persons may be cited for a violation: 1) the owner of an owner-occupied residence; 2) the renter or tenant of a rental property; 3) in the absence of the owner or renter, any person within a residential dwelling unit where such unit is in violation of this subsection; 4) any person permitted by the owner or renter of a residential dwelling unit to utilize such space at a time when such unit is in violation of this subsection. A violation of this subsection shall be subject to fine in an amount that is not lesser than Three Hundred Dollars (\$300.00) and not greater than One Thousand Dollars (\$1,000.00).

#### **52.07 SOUND APPARATUS.**

a) Distance-Based Regulations. No person shall play, use, operate or permit to be played, used, or operated, any radio or other device for receiving broadcast sound, reproducing recorded sound or amplifying sound if the device is located:

~~a)~~

1. On the public way (when not within a motor vehicle); or
2. In any motor vehicle on the public way; and if the sound generated by the device is clearly audible to a person with normal hearing at a distance greater than 50 feet from the device.
3. On any private property, where the sound generated by the device or motor vehicle is clearly audible to a person with normal hearing at a distance greater than 50 feet from the device.

This section shall not apply to any person participating in a parade or public assembly for which a permit has been obtained from the City during the duration of such event, nor to a person with any other City-issued permit for outdoor entertainment or which authorizes the sound amplifying device, during the duration of the permitted event.

- b) Decibel Based Regulations.



1. Definitions. All terminology used in this Section shall be in conformance with applicable publications of the American National Standard Institute (ANSI) or its successor body.
2. Weighted Sound Level. This means the sound pressure level decibels as measured on a sound level meter using the "A" weighing network. The level so read is designated dB(A) or dBA.
3. Day Hours. No person shall cause or allow the emission of sound during daytime hours (7:00 a.m. to 10:00 p.m.) from any noise source to any receiving residential land which exceeds 60 dBA when measured at any point within such receiving residential land, provided; however, that point of measurement shall be on the property line of the complainant.
4. Night Hours. No person shall cause or allow the emission of sound during nighttime hours (10:00 p.m. to 7:00 a.m.) from any noise source to any receiving residential land which 55 dBA when measured at any point within such receiving residential land provided; however, that point of measurement shall be on the property line of the complainant.
5. Variance Permits. Variance permits may be issued by the City Manager to exceed the noise standards set forth in this ordinance as follows:
  - (a) A temporary variance permit may be issued upon request provided that the work producing such noise is necessary to promote the public health and/or welfare and reasonable steps are taken to keep such noise at the lowest possible practical level.
  - (b) A permanent variance permit may be issued upon request, following an investigation into the source of the noise, including what, if any, measures can be taken to reduce or eliminate the noise; the cost of any such measure; and an overall evaluation of the request including the severity of the problem weighted against the cost of remedial measures; the benefit of the public, and the impact on the noise source.

Any permanent variance may be revoked by the City Manager if there is a significant change in the facts from the time the original variance was granted and if, following the same procedures involved in issuing the original permit, the City Manager should conclude it is in the best interest of the public to revoke the permit. (1992-145)
6. Exemptions.
  - (a) Emergency Operations. Emergency short term operations which are necessary to protect the health and welfare of the citizens, such as, emergency utility and street repair, fallen tree removal or emergency fuel oil delivery shall be exempt, provided that reasonable steps shall be taken by those in charge of such operations to minimize noise emanating from the same.
  - (b) Noises Required by Law. The provisions of section shall not apply to any noise required specifically by law for the protection or safety of people or property.
  - (c) Powered Equipment. Powered equipment such as lawn mowers, small lawn and garden tools, riding tractors and snow removal equipment which is necessary for the maintenance of property, is kept in good repair and maintenance, and which equipment, when new, would not comply with the standards set forth in this ordinance, shall be exempted.
  - (d) Community Events. The term "community events" shall include such things as parades, festivals, drum corps shows, sports events, 4th of July celebrations, sanctioned or

sponsored in whole or in part by local governments, schools or charitable or service organizations.

c) Temporal Regulations.

The use within a dwelling unit of a stationary or portable electronic sound reinforcement and/or sound reproduction system, utilizing loudspeakers, such that loud or raucous sounds radiate from outside the dwelling unit and are clearly audible from a distance of fifty feet from such dwelling unit shall be prohibited during the following hours:

Sunday 10:00 p.m. – Monday 7:00 a.m.  
Monday 10:00 p.m. – Tuesday 7:00 a.m.  
Tuesday 10:00 p.m. – Wednesday 7:00 a.m.  
Wednesday 10:00 p.m. – Thursday 7:00 a.m.  
Thursday 10:00 p.m. – Friday 7:00 a.m.  
Friday 12:00 Midnight – Saturday 7:00 a.m.  
Saturday 12:00 Midnight – Sunday 7:00 a.m.

d) Penalty. The minimum penalty for a violation of this ordinance shall be a fine of Two-Hundred Dollars (\$200.00) if paid as a mail-in violation or Three-Hundred Dollars (\$300.00) if a finding of liability is imposed in Court.

**52.08 NOISE IN PUBLIC PLACES.**

It shall be unlawful for any reason within the City to ring any bell, sound any gong or blow any whistle or horn other than a musical instrument used in connection with a band, or use any sound signal upon a vehicle except as a danger signal, or to make any other or unusual noise upon any street or other place in close proximity thereto. This shall not apply to fire apparatus, ambulances, police motorcycles, or whistles used by police or by factories for time signals.

**52.10 FIREARMS AND AIR GUNS.**

- a) Discharge. No person shall discharge any rifle, shot gun, pistol, revolver or similar firearm, instrument or weapon, or any prohibited projectile weapon, within the City. No person shall carry any prohibited projectile weapon, except unloaded and within a case, when on any public street, sidewalk, or other public property, or when upon any private property not owned by such person.
- b) Selling to Minors. No person shall sell, give, loan, or furnish to any minor within the City, any pistol, revolver, air gun, derringer, bowie knife, switch blade knife, dirk, or other weapon of like character (shotguns and rifles excepted.)
- c) Unlawful Carrying. No person shall carry concealed upon or about his person within the City, any pistol, revolver, derringer, bowie knife, switch blade knife, razor, slingshot, metallic knuckles, or any other weapon.
- d) Exception. This section shall not apply to any peace officer in the City in the discharge of his duties.
- e) Confiscation of Weapons. Any weapon adjudged by any court to have been worn or carried by any person in violation of the provisions of this Section shall be forfeited or confiscated to the City of DeKalb and shall be thereafter destroyed by Order of the Court.

- f) Penalty. Any person, firm or corporation violating this Section shall be fined as follows: 1) for discharge of a Prohibited Projectile Weapon with no accompanying injury to person or property, not less than One-Hundred Fifty Dollars (\$150.00) and not more than One Thousand Dollars (\$1,000.00); and 2) for the discharge of any other weapon or for the discharge of a Prohibited Projectile Weapon with personal injury or property damage, not less than Three-Hundred Dollars (\$300.00) nor more than One Thousand Dollars (\$1,000.00) for each offense. In addition, any person causing property damage with any such device shall be responsible for restitution for any damage caused.
- g) Definition: For purposes of this Section 52.10, a Prohibited Projectile Weapon shall include any air gun, bb gun, pellet gun, or other air, compressed air or spring-powered weapon that discharges hard projectiles made of plastic, metal, or other similar hard materials, regardless of caliber or muzzle velocity. It shall expressly include any bb gun, slingshot, pellet gun (whether powered by a spring, pump-air system, compressed air, or another mechanical device), any Airsoft gun, and any gun defined as an Air Rifle under 720 ILCS 535/0.01. Additionally, a Prohibited Projectile Weapon shall include a) any paintball gun, slingshot or other device that uses a spring, battery, compressed air or other mechanism to lob or discharge a paint, soap, or other liquid or powder filled capsule/bullet/projectile; and b) any device that uses an explosive charge to launch, fire or discharge a projectile of any kind. It shall not include any toy that does not use any explosive charge and that only discharges a projectile made of soft foam or another soft substance at a low velocity.
- h) Notices: The Chief of Police shall be authorized to approve signs or notices to be proposed for placement at local retail establishments that may stock or carry Prohibited Projectile Weapons, for public educational purposes, to advise the public of the requirements of this Ordinance.
- i) State-Licensed Concealed Carry:
- 1) Notwithstanding any of the foregoing prohibitions or any other applicable City regulation, the lawful possession, display or use of a concealed firearm in strict conformity with all applicable then-current State statutes and regulations applicable thereto, by a person who has been issued and is actually in possession of a valid, current, State-issued concealed carry permit after completion of all required training and after compliance with all statutory prerequisites, shall not be unlawful under City Code. Any violation of applicable State regulations shall render the immunities of this section i)1. inapplicable.
  - 2) It shall be unlawful to display a false, fraudulent, forged, expired, misleading or otherwise invalid concealed carry permit or to give false information to a police officer regarding the existence, validity or other facts relating to the issuance of such a concealed carry permit. It shall be unlawful to use or attempt to use a concealed carry permit belonging to any other person. It shall be unlawful to possess a fraudulent, forged, or false concealed carry permit. A violation of this subsection i)2. shall be punishable by a fine of not less than Seven-Hundred and Fifty Dollars (\$750.00), plus Court Costs.
  - 3) It shall be a violation of this City Code and unlawful to engage in any violation of the then-current version of the applicable Illinois statute or statutes which permit the concealed carry of firearms. The then-current, applicable provisions of State law are adopted as a component of this ordinance, by reference, as if fully restated herein. A violation of this subsection i)3. shall be punishable by a fine of not less than Seven-Hundred and Fifty Dollars (\$750.00), plus Court Costs.

## **52.11 BURGLARS TOOLS.**

No person shall have in his possession in the City any burglars' instruments or tools for any unlawful purpose. Burglars' instruments or tools include lock picks, any device designed or intended

to defeat a lock or alarm system (including slim jims and other automobile lock defeat devices) or any tools or implements which have been modified for the purpose of enabling them to be utilized as a lock or alarm defeat device, provided that a licensed locksmith, sworn peace officer, authorized municipal community service officer or tow truck driver may possess the foregoing items while in the performance of their official duties. Evidence of the presence of an unlawful purpose may be inferred from relevant circumstances, such as the presence of the offender on private property without lawful permission, the utilization or attempted utilization of such tools to gain access to private property without permission, the possession of such tools in conjunction with the possession of stolen merchandise, and other relevant circumstances.

#### **52.12 BOWS AND ARROWS, CROSSBOWS.**

- a) It shall be unlawful for any person to shoot any bow designed to shoot arrows in any place within the City at a target or other object at a distance greater than twenty (20) yards or where any person or property is likely to be struck, or in any way injured thereby. Only field tip or target tip arrows may be discharged. An arrow which lands on property other than the property from which it was discharged, shall be prima facie evidence of a violation of the provisions of this Section. Further, cross bows may only be discharged by handicapped persons who have been issued a hunting license by the State of Illinois for cross bow use.
- b) In addition to the above restrictions, no person under sixteen (16) years of age may shoot any bow designed to shoot arrows unless under the direct supervision of an adult twenty-one (21) years of age or older.
- c) Any person violating any of the provisions of this Section 52.12 shall be fined not less than Three-Hundred Dollars (\$300.00) nor more than One Thousand Dollars (\$1,000.00) for each offense.

#### **52.15 INTERFERENCE WITH PUBLIC PROPERTY.**

- a) Definitions. For the purpose of this Section, "public property" shall mean any real or personal property of any kind or description in which the State of Illinois, the City of DeKalb or any other municipality, local government or other public body has an ownership interest or right to possession or use.
- b) Prohibited Conduct.
  1. Public Property. No person shall injure, deface, or destroy any public property without prior permission of the City Manager or his designee.
  2. Drainage Systems. No person shall stop or obstruct the passage of water or other effluent upon any public way or public sewer, culvert, water pipe, hydrant or other drainage system laid, placed, or maintained by any public authority.
  3. Streetlights and Utility Wires. No person shall intentionally or recklessly break, deface, disturb, or interfere with, or in any way injure or destroy any electric light, lamp, globe or any part of or appurtenance thereto, used in, upon or about any public way. No person shall intentionally or recklessly break, injure destroy or interfere with any electric, telephone or telegraph wire, or any other utility medium, including television cable and gas transmission media used in, upon or about the public way.
  4. Kishwaukee River. No person shall operate or control a motor vehicle in, over, along or upon land lying adjacent to the Kishwaukee River and over which the City has easements for constructing, operating or maintaining levees, except vehicles authorized by the Director of Public Works, nor shall any person hinder access to the land lying adjacent to the River

when access is authorized by the Director of Public Works. No person shall construct any obstacle or impediment limiting or preventing access to such land, except with the approval of the Department of Public Works.

## 52.20-5 SYNTHETIC ALTERNATIVE DRUGS.

a) Definitions. For purposes of this article, the following definitions shall apply unless the context clearly indicates or requires different meaning:

1. *A product containing a synthetic alternative drug* means any product containing a synthetic cannabinoid, stimulant or psychedelic/hallucinogen, as those terms are defined herein such as, but not limited to, the examples of brand names or identifiers listed on Exhibit "A" attached hereto and incorporated herein.
2. *Synthetic cannabinoid* means any laboratory-created compound that functions similar to the active ingredient in marijuana, tetrahydrocannabinol (THC), including, but not limited to, any quantity of a natural or synthetic material, compound, mixture, preparation, substance, and their analog (including isomers, esters, ethers, salts, and salts of isomers) containing a cannabinoid receptor agonist, such as:
  - JWH-007 (1-pentyl-2-methyl-3-(1-naphthoyl) indole)
  - JWH-015 ((2-Methyl-1-propyl-1H-indol-3-yl)-1-naphthalenylmethanone)
  - JWH-018 (1-pentyl-3-(1-naphthoyl) indole)
  - JWH-019 (1-hexyl-3-(naphthalen-1-oyl) indole)
  - JWH-073 (naphthalen-1-yl-(1-butylinol-3-yl) methanone)
  - JWH-081 (4-methoxynaphthalen-1-yl-(1-pentylindol-3-yl) methanone)
  - JWH-098 (4-methoxynaphthalen-1-yl-(1-pentyl-2-methylindol-3-yl) methanone)
  - JWH-122 (1-Pentyl-3-(4-methyl-1-naphthoyl) indole)
  - JWH-164 (7-methoxynaphthalen-1-yl-(1-pentylindol-3-yl) methanone)
  - JWH-200 (1-(2-morpholin-4-ylethyl) indol-3-yl)-naphthalen-1-ylmethanone)
  - JWH-203 (2-(2-chlorophenyl)-1-(1-pentylindol-3-yl) ethanone)
  - JWH-210 (4-ethylnaphthalen-1-yl-(1-pentylindol-3-yl) methanone)
  - JWH-250 (1-pentyl-3-(2-methoxyphenylacetyl) indole)
  - JWH-251 (1-pentyl-3-(2-methylphenylacetyl) indole)
  - JWH-398 (1-pentyl-3-(4-chloro-1-naphthoyl) indole)
  - HU-210 ((6aR,10aR)-9-(Hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c]chromen-1-ol)
  - HU-211 ((6aS,10aS)-9-(Hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c]chromen-1-ol)
  - HU-308 ([[(1R,2R,5R)-2-[2,6-dimethoxy-4-(2-methyloctan-2-yl) phenyl]-7,7-dimethyl-4-bicyclo [3.1.1] hept-3-enyl] methanol)
  - HU-331 ((3-hydroxy-2-[(1R,6R)-3-methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-1,4-dione)
  - CP 55,940 (2-[(1R,2R,5R)-5-hydroxy-2-(3-hydroxypropyl) cyclohexyl]- 5-(2-methyloctan-2-yl) phenol)
  - CP 47,497 (2-[(1R,3S)-3-hydroxycyclohexyl]- 5- (2-methyloctan-2-yl) phenol) and its homologues
  - WIN 55,212-2 ((R)-(+)-[2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl) pyrrolo [1,2,3-de]-1,4-benzoxazin-6-yl]-1-nepthalenylmethanone)
  - RCS-4 ((4-methoxyphenyl) (1-pentyl-1H-indol-3-yl) methanone)
  - RCS-8 (1-(1-(2-cyclohexylethyl)-1H-indol-3-yl)-2-(2-methoxyphenyl) ethanone)
3. *Synthetic stimulant* means any compound that mimics the effects of any federally controlled Schedule I substance such as cathinone, methcathinone, MDMA and MDEA, including, but not limited to, any quantity of a natural or synthetic material, compound, mixture,

preparation, substance, and their analog (including salts, isomers, and salts of isomers) containing substances which have a stimulant effect on the central nervous system, such as:

- 3-Fluoromethcathinone
- 4-Fluoromethcathinone (another name: flephedrone)
- 3,4-Methylenedioxymethcathinone (another name: methylone, MDMC)
- 3,4-Methylenedioxypropylvalerone (another name: MDPV)
- 4-Methylmethcathinon (other names: mephedrone, 4-MMC)
- 4-Methoxymethcathinone (other names: methedrone, bk-PMMA, PMMC)
- 4-Ethylmethcathinone (another name: 4-EMC)
- Ethcathinone
- Beta-keto-N-methylbenzodioxolylpropylamine (other names: butylone, bk-MBDB)
- Naphthylpyrovalerone (other names: naphyrone, NRG-1)
- N, N-dimethylcathinone (another name: metamfepramone)
- Alpha-pyrrolidinopropiophenone (another name: alpha-PPP)
- 4-methoxy-alpha-pyrrolidinopropiophenone (another name: MOPPP)
  - 3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (another name: MDPPP)
- Alpha-pyrrolidinovalerophenone (another name: alpha-PVP)
- 6,7-dihydro-5H-indeno(5,6-d)-1,3-dioxal-6-amine (another name: MDAI)
- Any compound that is structurally derived from 2-amino-1-phenyl-1-propanone by modification or substitution in any of the following ways:
  - in the phenyl ring to any extent with alkyl, alkoxy, alkylenedioxy, haloalkyl, or halide substituents, whether or not further substituted in the phenyl ring by one or more other univalent substituents.
  - at the 3-position with an alkyl substituent.
  - at the nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups.
  - or by inclusion of the nitrogen atom in a cyclic structure.

4. *Synthetic psychedelic/hallucinogen* means any compound that mimics the effects of any federally controlled Schedule I substance, including but not limited to, any quantity of a natural or synthetic material, compound, mixture, preparation, substance, and their analog (including salts, isomers, esters, ethers and salts of isomers) containing substances which have a psychedelic/hallucinogenic effect on the central nervous system and/or brain, such as:

- 2-(2,5-Dimethoxy-4-ethylphenyl) ethanamine (2C-E).
- 2-(2,5-dimethoxy-4-methylphenyl) ethanamine (2C-D).
- 2-(4-Chloro-2,5-dimethoxyphenyl) ethanamine (2C-C).
- 2-(4-Iodo-2,5-dimethoxyphenyl) ethanamine (2C-I).
- 2-(4-(Ethylthio)-2,5-dimethoxyphenyl) ethanamine (2C-T-2).
- 2-(4-(Isopropylthio)-2,5-dimethoxyphenyl) ethanamine (2C-T-4).
- 2-(2,5-Dimethoxyphenyl) ethanamine (2C-H).
- 2-(2,5-Dimethoxy-4-nitro-phenyl) ethanamine (2C-N).
- 2-(2,5-Dimethoxy-4-(n)-propylphenyl) ethanamine (2C-P).

5. Misbranded drug shall have the same meaning as found in the Illinois Food, Drug, and Cosmetics Act, 410 ILCS 620/1 et seq.

- b) Sale or Delivery. It shall be unlawful for any person to sell, offer for sale or deliver any product containing a synthetic cannabinoid, stimulant, misbranded drug or psychedelic/hallucinogen.
- c) Possession. It shall be unlawful for any person to knowingly possess a product containing a synthetic cannabinoid, stimulant, misbranded drug or psychedelic/hallucinogen.
- d) Use. It shall be unlawful for any person to be under the influence of a synthetic cannabinoid, stimulant, misbranded drug or psychedelic/hallucinogen.
- e) Penalties. Any person found to be in violation of Section 52.420 (b), (c), or (d) shall be guilty of a City Ordinance Violation for each violation thereof. Each violation of this ordinance, or everyday a violation continues to exist, shall constitute a new and separate violation. Each violation of this Ordinance is punishable by a fine of not less than Seven-Hundred Fifty Dollars (\$750.00) nor more than One Thousand Dollars (\$1,000.00) per violation.
- f) Effect Upon Other Licensure. As noted above, violation of this Section constitutes an ordinance violation punishable by fine. In addition, violation of Section 52.20-5, b) by any organization, person, business, place, or establishment which has a license to sell intoxicating liquors pursuant to Chapter 38 of the City of DeKalb Municipal Code and/or which has a license to sell tobacco pursuant to Section 11.07 of the Municipal Code of the City of DeKalb shall constitute grounds for the City to take action relating to the liquor and/or tobacco license separate and apart from the ordinance violation, and the City may initiate proceedings to suspend or revoke the liquor and/or tobacco license of the party charged with a violation of this Section 52.20-5, b), and/or seek to impose a penalty under Chapter 38 or Section 11.07 of the Municipal Code of the City of DeKalb. For purposes of such a proceeding relating to the liquor and/or tobacco license, a violation of Section 52.20-5, b) shall be construed as a violation of the licensure requirements and sale restrictions under Section 11.07 and/or Chapter 38, which may be prosecuted according to the applicable requirements of those sections/chapters.

### **52.32 EMERGENCIES.**

- a) When both of the following conditions exist, there exists in the City of DeKalb a "state of emergency":
  1. A group of persons in excess of twenty-five (25), either standing together as a group or fragmented into such a number that the total of the fragments acting in concert equal in excess of twenty-five (25); and
  2. Wild and violent disorders, or violent breaches of the peace by the group of persons named in Paragraph 1, or a climate where there exists a clear, present and imminent danger of violence by the group of persons named in Paragraph 1, coupled with the ability to carry out such violence.
- b) Whenever the Mayor shall determine that a "state of emergency" exists, he shall sign, under oath, a statement finding that such standards have been met, setting forth facts to substantiate such findings, describing the nature of the emergency, and declaring that a "state of emergency" exists. Such statement shall be filed with the Clerk of the City of DeKalb as soon as practicable.
- c) After declaring a "state of emergency" the Mayor may declare the "state of emergency" at an end by giving written notice to that effect to the City Clerk, but in no event shall a "state of emergency" extend beyond the adjournment of the first regular meeting of the City Council of the City of DeKalb after the "state of emergency" is declared.



- d) Within thirty (30) minutes after the signing of the declaration of "state of emergency" there shall exist a curfew in the corporate limits of the City of DeKalb, which shall be in effect until the "state of emergency" is ended as provided in Subsection c).
- e) When a curfew exists under this Section, it shall be unlawful for any person to be upon the streets, sidewalks, public ways or public places of the City of DeKalb and it shall be unlawful for any person to sell or offer for sale any intoxicating beverages, gasoline or any other combustible or flammable liquid or gas. The Mayor may permit the sale of gasoline for motor vehicle purposes only, but such permission shall be in writing and filed with the Clerk. For the purpose of this Section no one shall be guilty of violating the curfew unless they:
  - 1. Intended to be upon the streets, sidewalks, public ways, or public places. If one is found upon the streets, sidewalks, public ways or public places, the presumption shall be that he intended to be there unless rebutted; or
  - 2. Intended to sell intoxicating beverages or gasoline or any other combustible or flammable liquid and did offer to sell or did sell those items. If one is found offering to sell or selling the items heretofore mentioned, the presumption shall be that he intended to do so unless rebutted.
- f) Notice. The Mayor shall cause notice to be given of the calling of a "state of emergency" and the time at which he signed the declaration by all available means reasonably known to him at the time of calling such a "state of emergency".
- g) Penalties. Any person, firm or corporation violating this Subsection e) shall be guilty of an ordinance violation and shall be punished by a fine of not less than Three-Hundred Dollars (\$300.00).
- h) The following persons shall be excepted from the application of that part of Subsection (e) making it unlawful to be on the streets, sidewalks, public ways or public places: the Mayor, the Aldermen, the City Manager, the City Attorney, the Municipal Youth Officer, members of the news media possessing proper credentials as issued by the City of DeKalb in conjunction with recommendations of the various news medias for the purpose of identification only, medical personnel acting in their professional capacity, peace officers and fire fighters, and any other persons who the Mayor may designate.

### **52.33 BARBED WIRE FENCES.**

It shall be unlawful to erect or maintain anywhere in the City a fence equipped with or having barbed wire, spikes or any similar device unless specifically authorized by the Unified Development Ordinance of the City of DeKalb.

### **52.37 THEFT OF CITY PROPERTY.**

- a) Property. Property as used in this Section shall mean property owned by the City of DeKalb.
- b) Permanent Deprivation. As used in this Section, to "permanently deprive" means to:
  - 1. Defeat all recovery of the property by the City of DeKalb; or
  - 2. Deprive the City of DeKalb criminally of the beneficial use of the property; or
  - 3. Retain the property with intent to restore it to the City of DeKalb only if the City purchases or leases it back, or pays a reward or other compensation for its return, or

4. Sell, give, pledge or otherwise transfer any interest in the property or subject it to the claim of a person other than the City of DeKalb.
- c) Stolen City Property. As used in this Section, "stolen City property" means property owned by the City of DeKalb over which control has been obtained by theft.
  - d) Obtain. As used in this Section, "obtain" means:
    1. In relation to property owned by the City of DeKalb, to bring about a transfer of interest or possession, whether to the offender or to another.
  - e) Obtain Control. As used in this Section, the phrase "obtains or exerts control" over property owned by the City of DeKalb includes but is not limited to the taking, carrying away, or the sale, conveyance, or transfer of title to, or interest in, or possession of property owned by the City of DeKalb.
  - f) Theft of City Property. A person commits theft of City owned property when he knowingly:
    1. Obtains or exerts unauthorized control over property owned by the City of DeKalb; or
    2. Obtains by deception control over property of the City of DeKalb; or
    3. Obtains by threat control over property of the City of DeKalb.
    4. Obtains control over stolen property knowing the property to have been stolen or under such circumstances as would reasonably induce him to believe that the property was stolen, and
      - (a) Intends to criminally deprive the City of DeKalb permanently of the use or benefit of the property; or
      - (b) Knowingly uses, conceals or abandons the property in such manner as to deprive the City of DeKalb permanently of such use or benefit; or
      - (c) Uses, conceals, or abandons the property knowing such use, concealment or abandonment probably will deprive the City of DeKalb permanently of such use or benefit.
  - g) It shall be prima facie evidence that a person "knowingly obtains or exerts unauthorized control over property owned by the City of DeKalb" when a lessee of the personal property of the City of DeKalb fails to return to the City of DeKalb within thirty (30) days after written demand from the City of DeKalb for its return. A notice in writing, given after the expiration of the Leasing Agreement, addressed and mailed, by certified mail, to the lessee at the address given by him and shown on the Leasing Agreement shall constitute proper demand.
  - h) Theft of Lost or Mislaid City Property. A person who obtains a control over lost or mislaid property owned by the City of DeKalb commits theft when he:
    1. Knows or learns that the City of DeKalb is the owner of the property or is aware of a reasonable method of learning that the City of DeKalb is the owner of the property, and
    2. Fails to take reasonable measures to restore the property to the City of DeKalb, and
    3. Intends to permanently deprive the City of DeKalb of the use or benefit of the property.

- i) Penalties. Any person, firm or corporation violating this Ordinance shall be guilty of an ordinance violation and shall be punished by a fine of not less than Three-Hundred Dollars (\$300.00) and shall be responsible for restitution for any damage caused.
- j) Reward. Any person providing information leading to the conviction of any individual charged with the offense of theft of City property or mislaid City property may, at the discretion of the City Council of the City of DeKalb, be paid a reward of Two-Hundred Fifty Dollars (\$250.00).

#### **52.37-5 PROTECTION OF DEKALB PUBLIC LIBRARY MATERIALS.**

a) Definitions. As used in this Ordinance:

1. "*Library Facility*" includes any public library or museum, or any educational, historical or eleemosynary institution, organization or society.
2. "*Library Material*" includes any book, plate, picture, photograph, engraving, painting, sculpture, statue, artifact, drawing, map, newspaper, pamphlet, broadside, magazine, manuscript, document, letter, microfilm, sound recording, audio-visual material, magnetic or other tape, electronic data processing record or other documentary, written or printed material regardless of physical form or characteristics, or any part thereof, belonging to, or on loan to, or otherwise in the custody of a library facility.
3. "*Premises of a Library Facility*" means the interior of a building, structure or other enclosure in which a library facility is located and in which the library facility keeps, displays and makes available for inspection or borrowing library material, but for purposes of this Section, such premises do not include the exterior appurtenances to such building, structure or enclosure nor the land on which such building, structure or other enclosure is located.
4. "*Library Card*" means a card or plate issued by a library facility for purposes of identifying the person to whom the library card was issued as authorized to borrow library material, subject to all limitations and conditions imposed on such borrowing by the library facility issuing such card.

b) Library Theft. A person commits the offense of library theft when he or she:

1. Knowingly and intentionally removes any library material from the premises of a library facility without authority to do so; or
2. Knowingly and intentionally conceals any library material upon his or her person or among his or her belongings, while still in the premises of a library facility and in such a manner that the library material is not visible through ordinary observation although there may be some notice of its presence, and removes such library material beyond the last point in the premises of that library facility at which library material may be borrowed in accordance with procedures established by that library facility for the borrowing of library materials; or
3. With the intent to deceive borrows or attempts to borrow any library material from a library facility by (i) use of a library card issued to another without the others consent, or (ii) use of a library card knowing that it is revoked, canceled or expired, or (iii) use of a library card knowing that it is falsely made, counterfeit or materially altered; or
4. Borrows from a library facility any library material pursuant to an agreement with or procedure established by the library facility for the return of such library material, and willfully without good cause fails to return the library material so borrowed in accordance

with such agreement or procedure, and further willfully without good cause fails to return such library materials within 30 days after receiving written notice by certified mail from the library facility demanding the return of such library material.

- c) Criminal mutilation or vandalism of library materials. A person commits mutilation or vandalism of library materials when he knowingly tears, marks on, maliciously renders imperfect or otherwise damages or destroys library materials.
- d) Posting of warning. Each library facility shall post a copy of this Ordinance at a location adjacent to each entrance to the premises of the library facility and at each point in the premises of the library facility at which the borrowing of library materials occurs.
- e) Sentence.
  - 1. Library theft, as defined in paragraph 4 of section (b) is a petty offense for which the offender shall be fined not less than Seventy-Five Dollars (\$75.00) nor more than \$500.00 and be ordered to reimburse the library for actual replacement cost of the materials not returned, pay all late fees and the postage required under 52.37-75 b) 4.
  - 2. Library theft, other than as defined in paragraph 4 of section (b) when the aggregate value of the library material which is the subject of such theft does not exceed Three-Hundred Dollars (\$300.00) is an ordinance violation with the offender punishable by a fine of not less than Three-Hundred Dollars (\$300.00) and ordered to reimburse the library for actual replacement costs of materials taken and not returned.
  - 3. For the purpose of sentencing under sections (1) and (2), separate transactions totaling more than Three-Hundred Dollars (\$300.00) within a 90-day period shall be presumed to constitute a single offense.
  - 4. Criminal mutilation or vandalism of library materials when the aggregate damage or loss of the library materials which are subject of such mutilation or vandalism does not exceed Three-Hundred Dollars (\$300.00) shall be punished by a fine of not less than One-Hundred Dollars (\$100.00) nor more than Five-Hundred Dollars (\$500.00) and the offender shall be ordered to reimburse the library for the actual replacement costs of the damaged materials. For the purpose of sentencing under this section (4), separate acts totaling more than Three-Hundred Dollars (\$300.00) within a 90-day period shall be presumed to constitute a single offense.

### **52.39 CURFEW.**

- a) Age Restriction; Curfew Hours: It is unlawful for a person less than seventeen (17) years of age to be present at or upon any public assembly, building, place, street or highway at the following times: (2004-019)
  - 1. Between 12:01 a.m. and 6:00 a.m. Saturday;
  - 2. Between 12:01 a.m. and 6:00 a.m. Sunday; and
  - 3. Between 11:00 p.m. on Sunday to Thursday, inclusive and 6:00 a.m. on the following day.
- b) Enforcement: Before taking any enforcement action under this Section 52.39, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall

not issue a citation or make an arrest under this Section unless the officer reasonably believes that a violation has occurred and that, based upon any response and other circumstances, none of the following exceptions apply:

1. The minor is accompanied by the minor's parent, legal guardian, custodian, sibling at least eighteen (18) years of age or a responsible companion at least eighteen (18) years of age approved by the minor's parent or legal guardian.
  2. The minor is engaged in employment that the laws of this state authorize a person less than seventeen (17) years of age to perform.
  3. The minor is engaged in an emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage.
  4. The minor is participating in, going to, or returning from an activity involving the exercise of the minor's right of religious freedom, freedom of speech or the right to assemble and petition protected under the First Amendment of the United States Constitution or Article 1, Sections 3, 4 and 5 of the Constitution of the State of Illinois, or both;
  5. The minor is participating in, going to, or returning from an activity conducted by a non-profit or governmental entity that provides recreation, education, or training under the supervision of at least one (1) adult; or
  6. The minor is participating in, going to, or returning from a school recreational activity, which is organized and/or sponsored by the school in which the minor is enrolled.
- c) Permitting Minor to Violate Curfew: It is unlawful for a parent, legal guardian or other person to knowingly permit a person in his custody or control to violate Subsection a) of this Section.
- d) Penalty: Any person violating any provision of this Section shall pay a fine of not less than Ten Dollars (\$10.00) and not more than One-Hundred Dollars (\$100.00).

#### **52.40 ASSAULT.**

- a) A person commits an assault when, without lawful authority, he engages in conduct, which places another in reasonable apprehension of receiving a battery.
- b) Penalties. Any person, firm or corporation violating this Ordinance shall be guilty of an ordinance violation and shall be punished by a fine of not less than Three-Hundred Dollars (\$300.00) and shall be responsible for restitution for any damage caused.

#### **52.50 BATTERY.**

- a) A person commits battery if he intentionally or knowingly without legal justification and by any means: 1) causes bodily harm to an individual; or 2) makes physical contact of an insulting or provoking nature with an individual.
- b) Penalties. Any person, firm or corporation violating this Ordinance shall be guilty of an ordinance violation and shall be punished by a fine of not less than Three-Hundred Dollars (\$300.00) and shall be responsible for restitution for any damage caused.

## **52.60 CRIMINAL DAMAGE TO PROPERTY.**

- a) A person commits an illegal act when he:
  - 1. Knowingly damages any property of another without his consent; or
  - 2. Recklessly by means of fire or explosive damages property of another; or
  - 3. Knowingly starts a fire on the land of another without his consent; or
  - 4. Knowingly injures a domestic animal of another without his consent; or
  - 5. Knowingly damages the property of another without his consent by defacing, deforming or otherwise damaging such property by the use of paint or any other similar substance.
- b) Penalties. Any person, firm or corporation violating this Ordinance shall be guilty of an ordinance violation and shall be punished by a fine of not less than Five-Hundred Hundred Dollars (\$500.00) and shall be responsible for restitution for any damage caused.

## **52.70 CRIMINAL TRESPASS TO REAL PROPERTY.**

- a) A person commits criminal trespass to real property when he enters upon the land or a building, other than a residence, or any part thereof of another, after receiving, prior to such entry, notice from the owner or occupant that such entry is forbidden, or remains upon the land or in a building, other than a residence, of another after receiving notice from the owner or occupant to depart.
- b) A person has received notice from the owner or occupant within the meaning of Subsection a) if he has been notified personally, either orally or in writing, or if a printed or written notice forbidding such entry has been conspicuously posted or exhibited at the main entrance to such land or the forbidden part thereof.
- c) Any owner or lessee of real property within the City of DeKalb may execute a Trespass Enforcement Agreement with the City of DeKalb that names the sworn peace officers of the City as the agent of the owner/lessee for purposes of issuing no-trespass notices, for the purpose of issuing citations based upon violations of the same, and for purposes of serving as complaining witness in the event of any violation of a no-trespass notice. The Chief of Police or designee shall be authorized to approve of an agreement for such use in form and content acceptable to the Chief, and to thereafter comply with and enforce the same. Where a citation is issued for trespass by virtue of such an enforcement agreement, any sworn peace officer of the City of DeKalb may serve as complaining witness in the prosecution of such offense.
- d) Penalties. Any person, firm or corporation violating this Ordinance shall be guilty of an ordinance violation and shall be punished by a fine of not less than Three-Hundred Dollars (\$300.00) and shall be responsible for restitution for any damage caused.

## **52.75 GRAFFITI DEFACEMENT.**

- a) Definitions. For the purposes of this section, the following words shall have the meanings respectively ascribed to them in this subsection, except where the context clearly indicates a different meaning:

1. *Aerosol paint container* means any aerosol container that is adapted or made for the purpose of applying spray paint or other substances capable of defacing property.
  2. *Broad-tipped marker* means any felt tip indelible marker or similar implement with a flat or angled writing surface that, at its broadest, is greater than one-fourth (1/4th) of an inch, containing ink or other pigmented liquid that is not water soluble.
  3. *Etching equipment* means any tool, device, or substance that can be used to make permanent marks on any natural or man-made surface.
  4. *Graffiti* means any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is otherwise deemed a public nuisance by the City Council.
  5. *Graffiti implement* means an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable scarring or leaving a visible mark on any natural or man-made surface.
  6. *Paint stick or graffiti stick* means any device containing a solid form of paint, chalk, wax, epoxy or other similar substance capable of being applied to a surface by pressure and leaving a mark of at least one-eighth (1/8th) of an inch in width.
  7. *Person* means an individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.
- b) Defacement. It shall be unlawful for any person to apply graffiti to any natural or man-made surface on any city-owned property or, without the permission of the owner or occupant, on any non-city-owned property.
- c) Penalties.
1. Fines and Imprisonment. Any person violating this Section shall be punished by a fine of not less than Two-Hundred Fifty Dollars (\$250.00) nor more than One- Thousand Dollars (\$1,000.00) for each offense.
    - (a) In the case of a minor, the parents or legal guardian shall be jointly and severely liable with the minor for payment of all fines.
    - (b) Failure of the parents or legal guardian to make payment will result in the filing of a lien on the parents or legal guardian's property that includes the fine and administrative costs.
  2. Restitution. In addition to any punishment specified in this Section, the court shall order any violator to make restitution to the victim for damages or loss caused directly or indirectly by the violator's offense in the amount or manner determined by the court. In the case of minor, the parents or legal guardian shall be ordered jointly and severely liable with the minor to make the restitution.
  3. Community Service. In lieu-of, or as part of, the penalties specified in this Section, a minor or adult may be required to perform community service as described by the court based on the following minimum requirements:



- (a) The minor or adult shall perform at least fifty (50) hours of community service.
  - (b) Reasonable effort shall be made to assign the minor or adult to a type of community service that is reasonably expected to have the most rehabilitative effect on the minor or adult, including community service that involves graffiti removal.
- d) Rewards and Reimbursements for Information. Any person providing information which results in the arrest and conviction of a person for defacement under the provisions of this Section, may, at the discretion of the City Council, be paid a reward of up to Two-Hundred Fifty Dollars (\$250.00). No claim for a reward shall be allowed unless the City investigates and verifies the accuracy of the claim and determines that the requirements of this Section have been satisfied.
- e) Graffiti as Nuisance. The existence of graffiti on public or private property in violation of this Section is expressly declared to be a public nuisance and, therefore, is subject to the removal and abatement provisions specified in this Section. It is the duty of both the owner of the property to which the graffiti has been applied and any person who may be in possession or who has the right to possess such property to at all times keep the property clear of graffiti.
- f) Removal of Graffiti by Perpetrator. Any person applying graffiti on public or private property shall have the duty to remove the graffiti within twenty-four (24) hours after notice by the City or private owner of the property involved. Such removal shall be done in a manner prescribed by the Chief of Police, the Community Development Director, or any additional City department, as authorized by the City Manager. Any person applying graffiti shall be responsible for the removal or for the payment of the removal. Failure of any person to remove graffiti or pay for the removal shall constitute an additional violation of this Section. Where graffiti is applied by an unemancipated minor, the parents or legal guardian shall also be responsible for such removal or for the payment for the removal.
- g) Removal of Graffiti by Property Owner or City. If graffiti is not removed by the perpetrator according to Subsection f), graffiti shall be removed pursuant to the following provisions:
- 1. Property Owner Responsibility. It is unlawful for any person who is the owner or who has primary responsibility for control of property or for repair or maintenance of property in the City, to permit property that is defaced with graffiti to remain defaced for a period of more than seven (7) days after service by first class mail of notice of the defacement. The notice shall contain the following information:
    - (a) The street address and legal description of the property sufficient for identification of the property.
    - (b) A statement that the property is a potential graffiti nuisance property with a concise description of the conditions leading to the finding.
    - (c) A statement that the graffiti must be removed within seven (7) days after receipt of the notice and that if the graffiti is not abated with that time the City will declare the property to be a public nuisance, subject to the abatement procedures in Subsection g); and
    - (d) An information sheet identifying any graffiti removal assistance programs available through the City and private graffiti removal contractors.
  - 2. Exceptions to Property Owner Responsibility. The removal requirements of Subsection g), 1. above shall not apply if the property owner or responsible party can demonstrate that:

- (a) The property owner or responsible party lacks the financial ability to remove the defacing graffiti; or
- (b) The property owner or responsible party has an active program for the removal of graffiti and has scheduled the removal of the graffiti as part of that program, in which case it shall be unlawful to permit such property to remain defaced with graffiti for a period of more than fifteen (15) days after service by first class mail of notice of the defacement.

3. Right of City to Remove.

- (a) Use of Public Funds. Whenever the City becomes aware or is notified and determines that graffiti is located on publicly or privately owned property viewable from a public or quasi-public place, the City shall be authorized to use public funds for the removal of the graffiti, or for the painting or repairing of the graffiti, but shall not authorize or undertake to provide for the painting or repair of any more extensive an area than that where the graffiti is located, unless the City Manager, or the designee of the City Manager, determines in writing that a more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the neighborhood or community, or unless the property owner or responsible party agrees to pay for the costs of repainting or repairing the more extensive area.
- (b) Right of Entry on Private Property. Prior to entering upon private property or property owned by a public entity other than the City for the purpose of graffiti removal the City shall attempt to secure the consent of the property owner or responsible party and a release of the City from liability for property damage or personal injury. If the property owner or responsible party fails to remove the offending graffiti within the time specified by this Section, or if the City has requested consent to remove or paint over the offending graffiti and the property owner or responsible party has refused consent for entry on terms acceptable to the City and consistent with the terms of this Section, the City shall commence abatement and cost recovery proceedings for the graffiti removal according to the provisions specified below.

4. Abatement and Cost Recovery proceedings.

- (a) Notice of Due Process Hearing. The City Manager, or the designee of the City Manager, serving as the Hearing Officer, shall serve the property owner of record and the party responsible for the maintenance of the property, if a person different than the owner, with written notice of the City's intent to hold a due process hearing at which the property owner or responsible party shall be entitle to present evidence and argue that the property does not constitute a public nuisance. If the owner of record cannot be found after a diligent search, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of ten (10) days.
- (b) Determination of Hearing Officer. The determination of the Hearing Officer after the due process hearing shall be final and not appealable. If, after the due process hearing, regardless of the attendance of the owner or the responsible party of their respective agents, the Hearing Officer determines that the property contains graffiti viewable from a public or quasi-public place, the Hearing Officer shall give written notice in an eradication order that, unless the graffiti is removed within seven (7) days, the City shall enter upon the property, cause the removal, painting over (in such color as shall meet with the approval of the Hearing Officer), or such other eradication thereof as the Hearing Officer determines appropriate, and shall provide the owner and the responsible

party thereafter with an accounting of the costs of the eradication effort on a full cost recovery basis.

- (c) Eradication Effort. Not sooner than the time specified in the order of the Hearing Officer, the City Manager, or the designee of the City Manager, shall implement the eradication order and shall provide an accounting to the owner and the responsible party of the costs thereof.
- (d) Lien. As to such property where the responsible party is the property owner, if all or any portion of the assessed eradication charges remain unpaid after thirty (30) days, the portion thereof that remains unpaid shall constitute a lien on the property that was the subject of the eradication effort and shall be recorded with the County Clerk's Office.

## **52.80 RETAIL THEFT.**

- a) For purposes of this Section 52.80, the words and phrases defined below have the meanings ascribed to them unless a contrary meaning is clear from the context.
  - 1. To "*conceal*" merchandise means that, although there may be some notice of its presence, that merchandise is not visible through ordinary observation.
  - 2. "*Full Retail Value*" means the merchant's stated or advertised price of the merchandise.
  - 3. "*Merchandise*" means any item of tangible personal property.
  - 4. "*Merchant*" means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, director, franchisee or independent contractor of such owner or operator.
  - 5. "*Minor*" means a person who is less than 19 years of age, is unemancipated and resides with his parents or legal guardian.
  - 6. "*Person*" means any natural person or individual.
  - 7. "*Peace Officer*" has the meaning ascribed to that term in Section 2-13 of the Illinois Code of Criminal Procedure (725 ILCS 5/ 2-13).
  - 8. "*Premises of a Retail Mercantile Establishment*" include, but is not limited to, the retail mercantile establishment; any common use area in shopping centers and all parking areas set aside by a merchant or on behalf of a merchant for the parking of vehicles for the convenience of the patrons of such retail mercantile establishment.
  - 9. "*Retail Mercantile Establishment*" means any place where merchandise is displayed, held, stored or offered for sale to the public.
  - 10. "*Shopping Cart*" means those push carts of the type of types which are commonly provided by grocery stores, drug stores or other retail mercantile establishments for the use of the public in transporting commodities in stores and markets and incidentally, from the stores to a place outside the store.
  - 11. "*Under-ring*" means to cause the cash register or other sales recording device to reflect less than the full retail value of the merchandise.

12. *"Theft Detection Shielding Device"* means any laminated or coated bag or device designed and intended to shield merchandise from the detection by an electronic or magnetic theft alarm sensor.
13. *"Theft Detection Device Remover"* means any tool or device specifically designed and intended to be used to remove any theft detection device from any merchandise.

b) A person commits the offense of retail theft when he or she knowingly:

1. Takes possession of, carries away, transfers or causes to be carried away or transferred, any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment with the intention of retaining such merchandise or with the intention of depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the full retail value of such merchandise; or
2. Alters, transfers, or removes any label, price tag, marking indicia of value or any other markings which aid in determining value affixed to any merchandise displayed, held, stored or offered for sale, in a retail mercantile establishment and attempts to purchase such merchandise personally or in consort with another at less than the full retail value with the intention of depriving the merchant of the full retail value of such merchandise; or
3. Transfers any merchandise displayed, held, stored or offered for sale, in a retail mercantile establishment from the container in, or on which such merchandise is displayed to any other container with the intention of depriving the merchant of the full retail value of such merchandise; or
4. Under-rings with the intention of depriving the merchant of the full retail value of the merchandise; or
5. Removes a shopping cart from the premises of a retail mercantile establishment without the consent of the merchant given at the time of such removal with the intention of depriving the merchant permanently of the possession, use or benefit of such cart; or
6. Represents to a merchant that he or another is the lawful owner of property, knowing that such representation is false and convey or attempts to convey that property to a merchant who is the owner of the property in exchange for money, merchandise credit or other property of the merchant; or
7. Uses or possess any theft detection shielding device or theft detection device remover with the intention of using such device to deprive the merchant permanently of the possession, use or benefit of any merchandise displayed, held, stored or offered for sale in retail mercantile establishment without paying the full retail value of such merchandise; or
8. Obtains or exerts unauthorized control over property of the owner and thereby intends to deprive the owner permanently of the use or benefit of the property when a lessee of the personal property of another fails to return it to the owner, or if the lessee fails to pay the full retail value of such property to the lessor in satisfaction of any contractual provision requiring such, within 30 days after written demand from the owner of its return. A notice in writing, given after the expiration of the leasing agreement, by certified mail, to the lessee at the address given by the lessee and shown on the leasing agreement shall constitute proper demand; or

9. Removes, loosens, alters, deactivates or attempts to remove/loosen/alter/deactivate any theft detection or theft deterrence device employed by a retail mercantile establishment, except with the express permission and authorization of such establishment; or
  10. Possesses any specialized device, implement or tool which is created or manufactured specifically for the purpose of disabling or removing a theft detection or theft deterrence device and which has no other common purpose, on the premises of a retail mercantile establishment, except when acting in the employment of such establishment.
- c) Presumptions. If any person:
1. Conceals upon his or her person or among his or her belonging, unpurchased merchandise displayed, held stored or offered for sale in a retail mercantile establishment; and
  2. Removes that merchandise beyond the last known station for receiving payment for that merchandise in that retail mercantile establishment, such person shall be presumed to have possessed, carried away or transferred such merchandise with the intention of retaining it or with the intention of depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the full retail value of such merchandise.
- d) Detention. Any merchant who has reasonable grounds to believe that a person has committed retail theft may detain such person, on or off the premises of a retail mercantile establishment, in a reasonable manner and for a reasonable length of time for all or any of the following purposes:
1. To request identification.
  2. To verify such identification.
  3. To make reasonable inquiry as to whether such person has in his possession unpurchased merchandise and to make reasonable investigation of the ownership of such merchandise.
  4. To inform a peace officer of the detention of the person and surrender the person to the custody of a peace officer.
  5. In the case of a minor, to inform a peace officer, the parents, guardian or other private person interested in the welfare of that minor of this detention and to surrender custody of the minor to such person.

A merchant may make a detention as permitted herein off the premises of a retail mercantile establishment only if such detention is pursuant to an immediate pursuit of such person.

A merchant shall be deemed to have reasonable grounds to make a retention for the purposes of this Section if the merchant detains a person because such person has in his possession either a theft detection shielding device or a theft detection device remover.

- e) Affirmative Defense. A detention as permitted in this Ordinance does not constitute an arrest or an unlawful restraint, as defined in Section 10-3 of the Illinois Code of Criminal Procedure (725 ILCS 5/10-3), nor shall it render the merchant liable to the person so detained.
- f) Penalties. Any person, firm or corporation violating this Ordinance shall be guilty of an ordinance violation and shall be punished by a fine of not less than Three-Hundred Dollars

(\$300.00) and shall be responsible for restitution for any damage caused or merchandise removed.

#### **52.85 DEFACING PUBLIC PROPERTY.**

It shall be unlawful to urinate or defecate on, in or upon any public street, sidewalk, park or other public place, or on any outdoor private property. Persons found violating this provision shall be fined not less than Seventy-Five Dollars (\$75.00) nor more than Three- Hundred Dollars (\$300.00) for each offense.

#### **52.90 THEFT.**

a) A person commits theft when he knowingly:

1. Obtains or exerts unauthorized control over property of the owner; or
2. Obtains by deception control over property of the owner; or
3. Obtains by threat control over property of the owner; or
4. Obtains control over stolen property knowing the property to have been stolen or under such circumstances as would reasonably induce him to believe that the property was stolen; and
  - (a) Intends to deprive the owner permanently of the use or benefit of the property; or
  - (b) Knowingly uses, conceals or abandons the property in such a manner as to deprive the owner permanently of such use or benefit; or
  - (c) Uses, conceals or abandons the property knowing such use, concealment or abandonment probably will deprive the owner permanently of such uses or benefit.

b) Penalties. Any person, firm or corporation violating this Ordinance shall be guilty of an ordinance violation and shall be punished by a fine of not less than Five-Hundred Dollars (\$500.00) and shall be responsible for restitution for any damage caused.

#### **52.91 FIREWORKS.**

a) A person shall not possess, sell, offer for sale, or discharge on private property any fireworks described below except where approved for the supervised display of fireworks.

Fireworks shall mean and include any explosive composition or any substance or combination of substances, or article prepared for the purpose of producing a visible or audible effect of a temporary exhibitional nature by combustion, explosion, deflagration or detonation, and shall include: blank cartridges, toy cannons in which explosives are used, the type of balloons which require fire underneath to propel the balloon, firecrackers, torpedoes, sky rockets, Roman candles, bombs or other fireworks of like construction and any fireworks containing any explosive compounds; or any tablets or other devices containing any explosive substance, or containing combustible substances producing visual effects.

The term "fireworks" shall not include snake or glow worm pellets; smoke devices; sparklers; trick noisemakers known as "party poppers", "booby traps", "snappers", "trick matches", "cigarette loads" and "auto burglar alarms"; automobile flares; toy pistols, toy canes, toy guns or

other devices in which paper or plastic caps containing twenty-five- hundredths (.25) grains or less of explosive compound are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for the explosion; and toy pistol paper or plastic caps which contain less than twenty-five hundredths (.25) grains of explosive mixture; the sale and use of which shall be permitted at all times.

- b) A person shall not manufacture, store, offer or expose for sale, sell at retail or discharge on public property any fireworks described below except where approved for the supervised display of fireworks.

Fireworks shall mean and include any combustible or explosive composition, and any substance and combination of substances and articles prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation.

Fireworks shall include blank cartridges, toy pistols, toy cannons, toy canes and toy guns in which explosives are utilized, balloons requiring fire underneath to propel the balloon, firecrackers, torpedoes, skyrockets, Roman candles, sparklers and other devices of similar construction, any device containing any explosive or flammable compound, and any tablets and other devices containing any explosive substance.

The term "fireworks" shall not include automobile flares, paper caps containing not more than an average of .25 grain (16mg) of explosive content per cap, and toy pistols, toy canes, toy guns and other devices utilizing such caps. The sale and utilization of the types of explosives devices listed herein which are not considered fireworks shall be permitted at all times.

Any person violating this Section shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than Five-Hundred Dollars (\$500.00) for each offense.

- c) For purposes of this Ordinance, "except where approved" shall be interpreted to mean where a fireworks display is expressly authorized by the issuance of all required federal, state or local permits, and where the display has been authorized in writing by the Fire Chief of the City of DeKalb.

#### **52.130 PARENTAL RESPONSIBILITY.**

- a) COMPASS Program: The City of DeKalb hereby formally initiates the COMPASS Program (Changing Outcomes by Making Parents Accountable, Successful and Supported).

- 1) Definitions:

*Delinquent Acts* means those acts which violate the laws of the United States, or the statutes of the state or the ordinances of the city but does not include traffic violations.

*Illegal Drugs* means controlled substances or other illegal drugs obtained without a legal prescription.

*Minor* means any person under the age of eighteen (18) years residing with a parent as defined herein.

*Parent* means mother, father, legal guardian and any other person having the care or custody of a Minor or any person acting in the parent's stead who has custody or control of the child.



2) Parental Responsibility:

- (a) It is the continuous duty of the parent of any Minor to exercise reasonable control to prevent the Minor from committing any Delinquent Act.
- (b) Included (without limitation) in this continuous duty of reasonable parental control are the following parental duties (with a violation of any such duty being unlawful):
  - (1) To keep illegal drugs or illegal substances or items out of the home, and to reasonably control and restrict access to alcohol or legal drugs within the home.
  - (2) To know the city's curfew law and to require the Minor to observe the curfew law.
  - (3) To require the Minor to attend regular school sessions and to forbid the Minor to be absent from class without parental or school permission.
  - (4) To arrange proper supervision for the Minor when the parent must be absent.
  - (5) To personally supervise and constrain the behavior of the Minor when the parent is present.
  - (6) To forbid the Minor from keeping stolen property, illegally possessing firearms or illegal drugs, or associating with known juvenile delinquents or gang members, and to seek help from appropriate governmental authorities or private agencies in handling or controlling the Minor, when necessary; if it becomes known to the parent that the Minor possesses stolen property, legal or illegal firearms, illegal drugs, or is associating with known juvenile delinquents.
  - (7) To know the location and activities of the Minor at all times.
  - (8) To prevent the Minor from engaging in any unlawful activity.
- (c) It shall be unlawful to fail to complete any training or counseling required pursuant to the provisions of this ordinance (and such failure may be charged as an ordinance violation without regard to the stage that the parent or Minor is at in the juvenile offender process).

3) Process:

- (a) If a Minor commits a Delinquent Act, the parent shall be guilty of a violation of this Ordinance if it is proven that any act, word, performance or nonperformance of parental duty by the parent encouraged, contributed toward, caused, tended to cause or in any way aided or enabled the commission of the Delinquent Act by the Minor, or the creation of a circumstance where the Minor was unattended or unsupervised at a time when the Minor committed the Delinquent Act. Where a parent fails to exercise reasonable control over a Minor, where the Minor commits the act while unsupervised by a parent or guardian, or where the Minor commits the act while also violating curfew or being absent from school (or home-schooling) without lawful authority, it shall be presumed that such failure to exercise reasonable control has a causal relationship to the Delinquent Act.
- (b) For purposes of this Ordinance, the City shall be required to prove the occurrence of the Minor's Delinquent Act by a preponderance of the evidence, and also to prove the parent's action or inaction (unless a presumption applies).

Notwithstanding the foregoing, the prosecution of the offense shall not be a prosecution of the Minor and no penalty shall be imposed against the Minor by virtue of such prosecution. If the Minor has plead guilty or been found guilty of the Delinquent Act in any Circuit Court or administrative proceeding, whether by default or otherwise, the City shall not be required to prove the occurrence of the Minor's Delinquent Act.

- (c) Upon the first violation of this ordinance, the Parent shall be provided with informational letter in form and content acceptable to the Chief of Police or designee, explaining the penalties for further violations.
- (d) Upon the second violation of this ordinance (whether a second offense by same Minor, or an offense by another Minor in the custody of parent or guardian) within a 12-month rolling period, the Parent shall be required to attend an in-person meeting with a trained juvenile officer from the DeKalb Police Department. The meeting shall include a detailed review of the offenses that the Minor was charged with. If appropriate, the parent and the City may enter into a Compliance Agreement with strategies that the parent will employ to avoid further offenses. The parent shall also be required to attend a Juvenile Intervention training conducted by the City and third parties in form and content acceptable to the Chief of Police or designee thereof.
- (e) Upon the third violation of this ordinance (whether a second offense by same Minor, or an offense by another Minor in the custody of parent or guardian) within a 12-month rolling period, or upon the failure of a parent to complete any meeting or training required herein, the parent shall be subject to a fine of not more than Seven-Hundred-Fifty Dollars (\$750.00).
- (f) In lieu of ordering payment of a fine, the parent may be sentenced to completing community service hours at a social service agency or non-profit, with a preference towards organizations providing services to minors.
- (g) In addition to the other penalties provided for herein, the defendant may be sentenced to payment of restitution to the City of DeKalb for officer time and actual costs incurred in the investigation, processing or prosecution of Delinquent Acts of the Minor or of violations of this ordinance. The Court shall make an initial determination as to whether or not it shall consider imposition of such costs, and if the Court determines to consider imposition, a hearing shall be set for the presentation of relevant evidence as to the costs incurred.
- (h) Enforcement of any penalty imposed pursuant to this Ordinance may be suspended for a period of time acceptable to the Court, provided that the parent enters into a Court Supervision Order providing for the completion of additional training or counseling, or otherwise providing for the performance of actions designed to minimize the potential for recidivism by the Minor(s) in question.
- (i) It shall be an affirmative defense to any charge based upon the action of a Minor, where the parent is able to prove that: 1) he or she was present with the Minor and utilizing all available reasonable measures to control the behavior of the Minor; 2) the Minor left the parent's residence without the consent and against the parent's express direction; 3) the parent immediately reported the Minor's leaving the premises without consent to the Police Department; and, 4) the Minor completed the Delinquent Act while so absent without consent.

b) Mandatory Attendance at Court:

1) Definitions as used in this section:

*Knowingly* means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inquiry or inspection. Knowingly includes knowledge that a parent should reasonably be expected to have concerning the whereabouts of a juvenile in that parent's legal custody. This requirement is intended to hold a neglectful or careless parent up to a reasonable community standard of parental responsibility through an objective test. It shall therefore be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such juvenile.

*Legal Guardian* means a person appointed guardian, or given custody, of a Minor by a circuit court of this state but does not include a person appointed guardian or given custody of a Minor under the Juvenile Court Act.

*Minor* means a person under the age of eighteen (18).

*Parent* means a biological or adoptive parent.

*Unemancipated Minor* means a Minor still under the care and custody of at least one (1) of her parents or a legal guardian.

- 2) Prohibited Conduct: It shall be unlawful for any parent or legal guardian of any Minor in her custody to knowingly allow or to knowingly permit such Minor to fail to appear in court, when said Minor is required by law to appear in court, after the Minor has been charged with a violation of any ordinance of the City of DeKalb or with failing to comply with any order of the Court. It shall be an affirmative defense for the parent or legal guardian to prove that she exercised reasonable efforts to ensure the Minor would appear in court when required, but that such action on the part of the parent or guardian, although exercised with due care, was unsuccessful. Any parent or legal guardian shall only be charged with a violation of this provision if she has received written notice, either by certified or registered mail or by personal service of summons or notice to appear, setting forth the charges against said Minor in the original cause.
- 3) Penalties: Every person violating the provisions of Section 52.130(b) shall be fined not less than Fifty Dollars (\$50.00) nor more than Two-Hundred Fifty Dollars (\$250.00) for each offense.

**52.130-5 PARENTAL RESPONSIBILITY FOR ACTUAL DAMAGES CAUSED BY A MINOR**

a) Definitions: As used in this Section, unless the context otherwise requires, the terms specified have the meanings ascribed to them:

(1) "Legal guardian" means a person appointed guardian, or given custody, of a minor by a circuit court of the State, but does not include a person appointed guardian, or given custody, of a minor under the Juvenile Court Act or the Juvenile Court Act of 1987.

(2) "Minor" means a person who is above the age of 11 years, but not yet 19 years of age.

b) Violation: The parent or legal guardian of an unemancipated minor who resides with such parent or legal guardian shall be liable for actual damages for the willful or malicious acts of such minor which cause injury to a person or property, including damages caused by a minor who has been adjudicated

a delinquent for violating Section 21-1.3 of the Criminal Code of 1961 or the Criminal Code of 2012. No recovery under this Section shall exceed \$20,000 actual damages for each person, legal entity, or governmental unit. Reasonable attorney's fees in an amount not to exceed \$15,000 may be awarded to the City in any action to enforce this Section including, but not limited to, an action under the City's administrative hearing procedure .

c) Penalties: In addition to actual damages, attorney's fees and costs as may be allowed under this Section, a violation of this Section may be subject to fines not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) for each offense.

d) No private cause of action: This Section does not create or form the basis of a private cause of action against the City and its officers, employees, and agents, or any parent or legal guardian. This Section shall not be construed to limit or alter any existing liability incurred, or to be incurred, under the common law or the Parental Responsibility Law (740 ILCS 115/1, et seq.), nor shall this Section be construed to provide the exclusive remedy for the conduct proscribed.

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## **52.200 ADULT USE – VIEWING BOOTHS.**

PURPOSE. It is a lawful purpose of the City of DeKalb to enact an ordinance setting forth regulations for the preservation of health and to prevent the spread of AIDS and other communicable or sexually transmitted diseases in the City of DeKalb. It has been found by DeKalb as well as other communities around the country, particularly Milwaukee, Racine, Waukesha, Delafield and Kenosha, Wisconsin, and Marion County, Indiana, that many adult-oriented establishments install movie viewing booths with doors and locks in which patrons view adult-oriented video tapes, movies, films and other forms of adult entertainment, and that such booths have been and are being used by patrons to engage in sexual acts resulting in unsanitary, unhealthy and unsafe conditions in said booths and establishments. This ordinance establishes standards for booth construction and maintenance in order to preserve health and to prevent the spread of AIDS and other communicable diseases.

## 52.201 DEFINITIONS.

- a) Adult-Oriented Establishment shall mean any premises including, but not limited to: adult bookstores, adult motion picture theaters, or adult cabarets, to which public patrons or members are invited or admitted and which are physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purposes of viewing adult entertainment, including adult-oriented motion pictures, films, or videotapes, or wherein an entertainer provides adult entertainment to a member of the public, a patron, or a customer, whether or not such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect.
- b) Adult Bookstore means an establishment having as its stock in trade, for sale, rent, lease, inspection or viewing, books, films, video cassettes, magazines or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or relating to "specific sexual activities" or "specified anatomical areas" as defined below, and in conjunction therewith have facilities for the presentation of adult entertainment, as defined below, including adult-oriented films, movies or live performances, for observation by patrons therein.
- c) Adult Motion Picture Theater means an enclosed building used for presenting material having as its dominant theme, or distinguished or characterized by an emphasis on, matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, for observation by patrons therein.
- d) Adult Cabaret means a cabaret which features topless dancers, strippers, male or female impersonators, or similar entertainers.
- e) Adult Entertainment" means any exhibition of any motion picture, film, videotape, live performance, display or dance of any type, which has as its dominant theme, or is distinguished or characterized by an emphasis on, any actual or simulated "specified sexual activities" or "specified anatomical areas" as defined below.
- f) Police Department means the City of DeKalb Police Department.
- g) Operator means any person, partnership, or corporation operating, conducting, maintaining or owning any adult-oriented establishment.
- h) Specified sexual activities means simulated or actual.
  - 1. Showing of human genitals in a state of sexual stimulation or arousal.
  - 2. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus.
  - 3. Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.
- i) Specified anatomical areas means:
  - 1. Less than completely and opaquely covered human genitals, public region, buttocks, and female breasts below the point immediately above the top of the areola.
  - 2. Human male genitals in a discernible turgid state, even if opaquely covered.

## **52.202 PHYSICAL LAYOUT OF BOOTHS AND PREMISES.**

Any adult-oriented establishment having available for customers, patrons or members, any booth, room or cubicle for the private viewing of any adult entertainment must comply with the following requirements:

- a) Access. Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the adult-oriented establishment and shall be unobstructed by any door, lock, curtain, blind, or other control-type devices.
- b) Construction. Each booth, room or cubicle shall meet the following construction requirements:
  - 1. Each booth, room or cubicle shall be separated from adjacent booths, rooms or cubicles and any non-public areas by a wall.
  - 2. Each booth, room or cubicle shall have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying the same.
  - 3. All walls in each booth, room or cubicle shall be solid without any openings. All such walls shall be extended from the floor to a height of not less than six (6) feet and be light colored, non-absorbent, smooth-textured and easily cleanable.
  - 4. The floor in each booth, room or cubicle must be light colored, non-absorbent, smooth textured and easily cleanable.
  - 5. The lighting level of each booth, room or cubicle when not in use shall be a minimum of ten (10) foot candles at all times, as measured from the floor. The lighting level of each booth, room or cubicle when in use shall be a minimum of one (1) foot candle at all times, as measured from the floor.
- c) Occupants. Only one individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.

## **52.203 RESPONSIBILITIES OF THE OPERATOR.**

- a) Every act of omission by an employee constituting a violation of the provision of this Section shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
- b) The operator shall maintain the premises in a clean and sanitary manner at all times.
- c) The operator shall maintain at least ten (10) foot candles of light in the public portions of the establishment, including aisles, at all times.
- d) The operator shall ensure compliance of the establishment and its patrons with the provisions of this section.

- e) The operator shall post the regulations concerning booth occupancy on signs, with lettering at least one inch high, in conspicuous areas of the establishment and in each booth, room or cubicle.

#### **52.204 ENFORCEMENT.**

It shall be unlawful for any person, corporation, partnership or other entity to operate any adult-oriented establishment in violation of or to otherwise violate any of the provisions of this ordinance. The Police Department shall have the authority to inspect the premises during operating hours and to enforce the provisions of this ordinance.

#### **52.205 PENALTIES.**

Any person violating any provisions of this section shall be fined not less than Five-Hundred Dollars (\$500.00) nor more than Five-Thousand Dollars (\$5,000.00) for each offense. With the exception of 52.202(c), a separate offense is established for every day that a violation exists.

#### **52.300 TOBACCO USE, CONSUMPTION, POSSESSION BY MINORS.**

It shall be unlawful for any person under the age of twenty-one (21) years, to use, possess or consume any cigar, cigarette, smokeless tobacco or tobacco in any of its forms within one thousand feet (1,000) of the property line of any public school within the corporate limits of the City of DeKalb. For purposes of this section, "smokeless" tobacco shall mean any tobacco product that is suitable for dipping or chewing.

Penalty: Any person violating this Section shall be fined not less than Seventy-Five- Dollars (\$75.00) for each offense.

#### **52.400 POSSESSION OF CANNABIS.**

- a) Except as may otherwise be allowed under State law and this Code, the possession of cannabis is prohibited as follows: (1) no person who is under 21 years of age shall use or possess any substance containing cannabis; (2) no person who is 21 years of age or older shall possess (a) more than 30 grams of cannabis flower, (b) 5 grams of cannabis concentrate, (c) cannabis-infused product(s) containing a total of more than 500 milligrams of tetrahydrocannabinol (THC), and (d) cannabis plants; (3) no person shall possess any amount of cannabis in any form (a) in a school bus, (b) on the grounds of any preschool or primary or secondary school, (c) in a vehicle not open to the public unless the cannabis is in a reasonably secured, sealed container and reasonably inaccessible while the vehicle is moving, or (d) in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises; and (4) no person shall use cannabis (a) in a school bus, (b) on the grounds of any preschool or primary or secondary school, (c) in any motor vehicle, (d) in any motor vehicle, (e) in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises, (f) in any public place where a person could reasonably be expected to be observed by others, (g) knowingly in close physical proximity to anyone under 21 years of age who is not a registered medical cannabis patient, or (h) while operating a motor vehicle, aircraft, or motorboat.
- b) For purposes of this Section, "cannabis" means marijuana, hashish, and other substances that are identified as including any parts of the plant Cannabis sativa and including derivatives or subspecies, such as indica, of all strains of cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of the plant; and any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin, including



tetrahydrocannabinol (THC) and all other naturally produced cannabinol derivatives, whether produced directly or indirectly by extraction; however, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted from it), fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. "Cannabis" does not include industrial hemp as defined and authorized under the Industrial Hemp Act. "Cannabis" also means concentrate and cannabis-infused products.

- c) Penalty: Any person violating this Section shall be fined not less than Three-Hundred Dollars (\$300.00) for a first-time violation and not less than (Seven-Hundred and Fifty Dollars (\$750.00) nor more than One-Thousand Dollars (\$1,000.00) for second or subsequent violations charged. Notwithstanding the foregoing, in the event that a violation of this section is processed and paid as a "mail-in" citation within the timeline for said mail-in process (and before the initiation of an ordinance violation case in the Circuit Court), the fine for said violation shall be Two-Hundred Dollars (\$200.00).
- d) State-Licensed Medical Cannabis:
  - 1) Notwithstanding any of the foregoing prohibitions or any other applicable City regulation, the lawful possession or use of medicinal cannabis, in strict conformity with all applicable then-current State statutes and regulations applicable thereto, by a person who has been issued and is actually in possession of a valid, current, State-issued medical cannabis permit, shall not be unlawful under City Code. Any violation of applicable State regulations shall render the immunities of this section (d)(1) inapplicable.
  - 2) It shall be unlawful to display a false, fraudulent, forged, expired, misleading or otherwise invalid medical cannabis permit or to give false information to a police officer regarding the existence, validity or other facts relating to the issuance of such a medical cannabis permit. It shall be unlawful to use or attempt to use a medical cannabis permit belonging to any other person. It shall be unlawful to possess a fraudulent, forged or false medical cannabis permit. A violation of this subsection (d)(2) shall be punishable by a fine of not less than Seven-Hundred and Fifty Dollars (\$750.00), plus Court Costs.
  - 3) It shall be a violation of this City Code and unlawful to engage in any violation of the then-current version of the applicable Illinois statute or statutes which permit the medical use or possession of cannabis. The then-current, applicable provisions of State law are adopted as a component of this ordinance, by reference, as if fully restated herein. A violation of this subsection (d)(3) shall be punishable by a fine of not less than Seven-Hundred and Fifty Dollars (\$750.00), plus Court Costs.

**52.410 POSSESSION OF DRUG PARAPHERNALIA.**

- a) Violation. No person shall possess any item of drug paraphernalia with the intent to use it for the purpose of unlawfully ingesting, inhaling, or otherwise introducing a controlled substance into the human body, or in preparing a controlled substance for that use. In determining intent for purposes of this Section, the trier of fact may take into the consideration of the proximity of the controlled substances to the drug paraphernalia or the presence a controlled substance on the drug paraphernalia.
- b) Definitions. As used in this Section, the following shall include and have the following meanings:

*Controlled Substance:* Any substance as defined in article II of the Illinois Controlled Substances

Act, 720 ILCS 570/201 et seq.

*Drug Paraphernalia:* All equipment, products, and materials of any kind which are used or intended to be used 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 a controlled substance in violation of Section 52.400 of this Code, or the Illinois Controlled Substances Act, 720 ILCS 570/100 et seq. It includes, but is not limited to:

1. Kits intended to be used unlawfully in manufacturing, compounding, converting, producing, processing, or preparing a controlled substance.
2. Isomerization devices intended to be used unlawfully in increasing the potency of any species of plant which is a controlled substance.
3. Testing equipment intended to be used unlawfully in a private home for identifying or in analyzing the strength, effectiveness, or purity of controlled substances.
4. Diluents and adulterants intended to be used unlawfully for cutting a controlled substance by private persons.
5. Objects intended to be used unlawfully in ingesting, inhaling, or otherwise introducing cocaine or other controlled substances into the human body including, where applicable, the following items:
  - (a) Water pipes.
  - (b) Carburetion tubes and devices.
  - (c) Smoking and carburetion masks.
  - (d) Miniature cocaine spoons and cocaine vials.
  - (e) Carburetor pipes.
  - (f) Electric pipes.
  - (g) Air driven pipes.
  - (h) Chillums.
  - (i) Bongs.
  - (j) Ice pipes or chillers.
  - (k) Foodstuffs that have been modified for the purpose of rendering them capable of being utilized in the burning and inhalation or other administration of drugs.
  - (l) Any other item that includes drug residue or indicia of use as an implement for the ingestion, cooking, preparation or distribution of controlled substances.
6. Any item whose purpose, as announced or described by the seller, is for use in violation of this Section or Section 52.400 of this Code.

*Knowledge:* Knows, acts knowingly or with knowledge:

1. The nature or attendant circumstances of his/her conduct, described by the section defining the offense, when he/she is consciously aware that his/her conduct is of such nature or that such circumstances exist. Knowledge of a material fact includes awareness of the substantial probability that such fact exists.

2. The result of his/her conduct, described by the section defining the offense, when he/she is consciously aware that such result is likely to be caused by his/her conduct.
3. Knowledge may be inferred from the surrounding circumstances.

*Manufacture:* The production, preparation, propagation, compounding, conversion or processing of controlled substances, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of controlled substances or labeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of controlled substances as an incident to lawful research, teaching or chemical analysis and not for sale.

*Person:* Any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.

*Possession:* Possession may be either actual or constructive.

1. Actual possession means exercising physical dominion.
2. Constructive possession may be inferred if the defendant has intent and capacity to maintain control and dominion over the cannabis or drug paraphernalia.

*Produce Or Production:* Planting, cultivating, tending or harvesting.

- c) **Penalty.** Any person violating this Section shall be fined not less than Three-Hundred Dollars (\$300) for a first-time violation and not less than Seven-Hundred and Fifty Dollars (\$750.00) nor more than One Thousand Dollars (\$1,000.00) for second or subsequent violations charged. Notwithstanding the foregoing, in the event that a violation of this Section is processed and paid as a "mail-in" citation within the timeline for said mail-in process (and before the initiation of an ordinance violation case in the Circuit Court), the fine for said violation shall be Two-Hundred Dollars (\$200).
- d) **Forfeiture.** Drug paraphernalia as defined herein, seized by police officers pursuant to an arrest or issuance of a notice to appear for a violation of this Section, shall be forfeited to the City of DeKalb upon a plea or finding of guilty for a violation of this Section, or upon payment of the fine in settlement of said violation pursuant to Section 1.12 of this Code, without further order of the court.
- e) **Exempt Items.** This Section does not apply to the following:
  1. Items marketed for the use in the preparation, compounding, packaging, labeling or other use of cannabis or a controlled substance as an incident to lawful research, teaching, or chemical analysis and not for sale.
  2. Items marketed for, or historically and customarily used in connection with the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, or inhaling of tobacco or any other lawful substance, such as garden hoes, rakes, sickles, baggies, tobacco pipes, and cigarette rolling papers.
  3. Items listed in the definition of "drug paraphernalia" in Section 52.400(b), which are marketed for decorative purposes, when such items have been rendered completely inoperable or incapable of being used for any illicit purposes prohibited by this Section.

- f) Determination. In determining whether a particular item is exempt under this Section, in addition to all other logically relevant facts, the following should be considered:
1. The general, usual, customary, and historical use of the item involved.
  2. Expert evidence concerning the ordinary or customary use of the item involved and the effect of any peculiarity in the design or engineering of the item upon its functioning.
  3. Any written or oral instructions accompanying the delivery of the item concerning its use.
  4. National and local advertising concerning its use.
  5. The manner in which the item is displayed for sale.

#### **52.411 NUISANCE GATHERINGS.**

a) Definition. A Nuisance Party is an assembly, ~~social~~ gathering or party of three (3) or more persons which is conducted within the City and, by reason of the conduct of persons in attendance, results in the occurrence of any one (1) or more of the following offenses under the City's Municipal Code:  
~~(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 52.06~~5~~, -52.08, ~~-52.35~~.
9. Public disturbances, brawls, fights or threatening verbal quarrels; or
10. Indecent or obscene conduct, and indecent exposure – Section 52.04; or
11. Disorderly Conduct – Section 52.02.

~~b) Declaration of nuisance. A ~~nuisance~~ Nuisance pParty shall be deemed to constitute a public nuisance. No person including, but not limited to, ~~who is~~ an owner, occupant, tenant,~~

or other person who ~~otherwise~~ has lawful possession or possessory control, individually or jointly with others, of any premises shall knowingly, negligently or recklessly allow a Nuisance Party on said premises or public property. ~~social gathering or party on said premises to become a nuisance party as defined in this section.~~

↻ c) 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.

↻ d) 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.

**CHAPTER 52**  
**“OFFENSES AGAINST PUBLIC PEACE – SAFETY AND MORALS”**  
**TABLE OF AMENDMENTS**

The following table provides for the amendments made to this Municipal Code Chapter since its original effective date of \_\_\_\_\_ (Ordinance \_\_\_\_\_).

| <b>Effective Date</b> | <b>Ordinance No.</b> | <b>Description of Amendment</b>  |
|-----------------------|----------------------|--|
| 1/27/1969             | 1969-002             | Amending Chapter 52 “Offenses”, Section 52.30 as it Pertains to Obstructing any Public Highway by Stopping any Train.  |
| 6/8/1970              | 1970-009             | Amending Chapter 52 “Offenses”, Section 52.30(g) “Hearing”.  |
| 9/11/1972             | 1972-042             | Amending Chapter 52 “Offenses”, Section 52.30 “Housing Discrimination”.  |
| 9/11/1972             | 1972-044             | Amending Chapter 52 “Offenses”, by Adding Section 52.155 as it Pertains to Prohibiting Motor Vehicles on the Levee.  |
| 10/22/1973            | 1973-060             | Amending Chapter 52 “Offenses Against Public Peace – Safety and Morals”, by Adding Section 52.53 “Fences”.   |
| 1/28/1974             | 1974-001             | Amending Chapter 52 “Offenses”, Section 52.30 “Authority of the Commission”.   |
| 2/11/1974             | 1974-002             | Amending Chapter 52 “Offenses” (Definitions). <i>(Note: This Ordinance was passed by Council, but the Mayor was reluctant to sign the document and it was vetoed. Detailed information located in the ordinance file.)</i>                             |
| 4/13/1981             | 1981-029             | Amending Chapter 52 “Offenses Against Public Peace – Safety and Morals” by Adding Section 52.35 "Noise Control Regulation".  |
| Failed<br>1/11/1982   | 1982-001             | Amending Chapter 52 “Offenses Against Public Peace – Safety and Morals” by Including a Ban Against the Sale, Purchase, and Possession of Machine Guns.   |
| 8/9/1982              | 1982-052             | Amending Chapter 52 “Offenses Against Public Peace – Safety and Morals” by Adding a New Section 52.36 "Electronic Sound Systems".  |
| 12/13/1982            | 1982-084             | Amending Chapter 52 “Offenses Against Public Peace – Safety and Morals” by Amending Section 52.01 "Fighting, Assault and Battery", Section 52.02 “Disorderly Conduct”, and Section 52.10 "Firearms and Air Guns”, by Deleting Section 52.27 "Lottery". |
| 12/13/1982            | 1982-085             | Amending Chapter 52 “Offenses Against Public Peace – Safety and Morals” (Barb Wire Fences).  |
| 1/14/1985             | 1985-003             | Amending Chapter 52 “Offenses Against Public Peace – Safety and Morals” as it Pertains to Substituting the Title “Director of Community Development or Designee” with “Chief Code Enforcement Officer”. (Various Chapter Amendments)                   |
| 4/28/1986             | 1986-021             | Amending Chapter 52 “Offenses Against Public Peace – Safety and Morals”, Section 52.22 “Obscenity”.  |

| <b>Effective Date</b> | <b>Ordinance No.</b> | <b>Description of Amendment</b>  |
|-----------------------|----------------------|--|
| 6/9/1986              | 1986-028             | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals", Sections 52.34, 52.35, and 52.36, by Increasing the Minimum Fines.  |
| 4/27/1987             | 1987-028             | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" by Adding thereto Section 52.38 "False Fire Alarms".   |
| 4/27/1987             | 1987-029             | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" by Adding a New Section 52.37 "Theft of City Property".  |
| 7/27/1987             | 1987-054             | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals", Section 52.15 "Injuring Public Property".   |
| 8/22/1988             | 1988-074             | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" by Deleting Section 52.34 "Smoking Regs" and Adding New Section 52.34 "No Smoking in Public Places".   |
| 10/24/1988            | 1988-095             | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" (Various Additions and Deletions).   |
| 6/11/1990             | 1990-064             | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" by Deleting and Inserting Various Sections.  |
| 10/22/1990            | 1990-118             | Amend Chapter 52 "Offenses Against Public Peace – Safety and Morals", Section 52.06 "Defacing Public Property."  |
| 4/8/1991              | 1991-035             | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" by Deleting and Adding New Penalties in Sections 52.02, 52.22, 52.32, 52.35, 52.37, 52.38, 52.40, 52.50, 52.60, 52.70, and 52.80.                                |
| 6/10/1991             | 1991-066             | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" by Adding Section 52.39 "Curfew."  |
| 8/24/1992             | 1992-101             | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" by Amending Sections 52.02, 52.40, 52.50, 52.60, 52.70, and 52.80, Changing Minimum Fines to \$150.00.   |
| 11/9/1992             | 1992-145             | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" in Section 52.35, Adding (e)2.   |
| 3/8/1993              | 1993-035             | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" by Amending Section 52.01 "Fighting", Section 52.06 "Disorderly House", Section 52.35 "Noise Control Regulations", and Section 52.36 "Electronic Sound Systems". |
| 5/10/1993             | 1993-061             | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" by Adding Section 52.37-5 "Protection of DeKalb Public Library Materials".   |
| 8/8/1994              | 1994-113             | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" by Adding Section 52.90 "Theft".   |

| <b>Effective Date</b> | <b>Ordinance No.</b> | <b>Description of Amendment</b>  |
|-----------------------|----------------------|--|
| 9/11/1995             | 1995-091             | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" by Adding New Section 52.91 "Fireworks."   |
| 11/13/1995            | 1995-131             | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" by Adding New Section 52.100 "Massage Therapist/Massage Therapy".  |
| 2/12/1996             | 1996-017             | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" by Adding New Section 52.110 "Cigarette Vending Machines".   |
| 4/8/1996              | 1996-050             | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals", Section 52.105 "Application for License", Subsections b) and c). (Changing License Fees)  |
| 5/13/1996             | 1996-071             | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals", Section 52.115 "Grandfather Clause." (Changing Recommendation Requirement)  |
| 9/23/1996             | 1996-134             | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" by Adding New Section "Adult Use - Viewing Booths".  |
| 11/12/1996            | 1996-157             | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" by Adding New Subsection 52.130 "Parental Responsibility".   |
| 1/27/1997             | 1997-007             | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" by Adding New Section 52.300 "Tobacco Use, Consumption, and Possession by Minors".   |
| 11/24/1997            | 1997-105A            | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals", Section 52.36 "Electronic Sound Systems", by Revising the Hours when Loud Sounds are Prohibited.  |
| 11/24/1997            | 1997-105B            | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals", Section 52.35 "Noise Control Regulations", by Reducing the Level of Allowable Noise.  |
| 1/26/1998             | 1998-019             | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" by Adding New Section 52.75 "Graffiti Defacement".   |
| Tabled<br>2/23/1998   | 1998-027             | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals", Section 52.10 "Firearms and Air Guns", by Including Crossbows and Bows that Shoot Arrows in the List of Weapons Prohibited from being Discharged within the City. |
| 4/27/1998             | 1998-045             | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" by Adding New Section 52.12 "Bows and Arrows, Crossbows".  |
| 5/11/1998             | 1998-046             | Amending Chapter 11 "Health" by Inserting New Section 11.07 "Tobacco Sales, Use and Licensing", and Moving the References to Tobacco Contained in <b>Chapter 52</b> "Offenses Against Public Peace – Safety and Morals", to Chapter 11.    |
| 1/11/1998             | 1998-139             | Amending Chapter 52 "Offenses Against Public Peace - Safety and Morals", Section 52.37-5 "Protection of DeKalb Public Library Materials".  |



| Effective Date | Ordinance No. | Description of Amendment  |
|----------------|---------------|---|
| 3/8/1999       | 1999-012      | Amending Chapter 52 "Offenses Against Public Peace - Safety and Morals", Sections 52.02, 52.32, 52.37, 52.40, 52.50, 52.60, 52.70, and 52.80, by Deleting the Incarceration Penalty for Persons Aged Sixteen (16) and Under.  |
| 3/27/2000      | 2000-019      | Amending Chapter 52 "Offenses Against Public Peace - Safety and Morals" by Changing the Penalty Provisions for Possible Incarceration from an Age of Seventeen (17) Years and Older to Eighteen (18) Years and Older.   |
| 4/23/2001      | 2001-023      | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" by Revising the License Procedure for Massage Therapists and Massage Therapy Clinics.   |
| 7/9/2001       | 2001-046      | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals", Section 52.01 "Fighting", Section 52.02 "Disorderly Conduct", Section 52.37 "Theft of City Property", Section 52.40 "Assault", Section 52.50 "Battery", Section 52.60 "Criminal Damage to Property", Section 52.70 "Criminal Trespass to Real Property", Section 52.80 "Retail Theft", and Section 52.90 "Theft", by Increasing the Penalties for Violation. |
| 10/22/2001     | 2001-094      | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals", Section 52.01 "Fighting".  |
| 5/27/2003      | 2003-050      | Amending Chapter 52 "Offenses Against Public Peace - Safety and Morals", Section 52.02 "Disorderly Conduct", Section 52.10 "Firearms and Air Guns", Section 52.21 "Loitering", Section 52.40 "Assault", Section 52.50 "Battery", Section 52.60 "Criminal Damage to Property", Section 52.70 "Criminal Trespass to Real Property", Section 52.80 "Retail Theft", and Section 52.90 "Theft", by Increasing the Penalties for Violation. |
| 3/22/2004      | 2004-019      | Amending Chapter 52 "Offenses Against Public Peace - Safety and Morals", Section 52.39 "Curfew".  |
| 12/13/2004     | 2004-101      | Amending Chapter 52 "Offenses Against Public Peace - Safety and Morals" by Deleting Section 52.100 "Massage Therapist/Massage Therapy" through Section 52.115.  |
| 6/12/2006      | 2006-043      | Amending Chapter 38 "Intoxicating Liquors", and <b>Chapter 52</b> "Offenses Against Public Peace – Safety and Morals", to Prohibit the Possession, Use, Sale and the Transfer of Alcohol Without Liquid (AWOL) Device.  |
| 1/14/2008      | 2008-004      | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals", Section 52.06 "Disorderly House".  |
| 10/13/2008     | 2008-070      | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals", Sections 52.01 "Fighting", 52.06 "Disorderly House", 52.35 "Noise Control Regulation", 52.36 "Electronic Sound Systems", and 52.80 "Retail Theft", by Increasing Violation Penalties Commencing January 1, 2009.   |
| 10/13/2008     | 2008-071      | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" by Adding Section 52.400 "Possession of Cannabis", and Section 52.410 "Possession of Drug Paraphernalia".   |

| Effective Date                    | Ordinance No. | Description of Amendment  |
|-----------------------------------|---------------|---|
| 11/8/2010                         | 2010-069      | Amending Chapter 34 "Amusements", Section 34.01 "License", and Creating Section 34.06-5 "Boxing"; and Amending <b>Chapter 52</b> "Offenses Against Public Peace – Safety and Morals", Section 52.09 "Boxing."   |
| 5/14/2012                         | 2012-033      | Amending Chapter 52 "Offenses Against Public Peace - Safety and Morals", by Adding New Section 52.20-5 "Synthetic Alternative Drugs".   |
| 11/13/2012                        | 2012-086      | Amending Chapter 52 "Offenses Against Public Peace Safety and Morals", Section 52.300 "Tobacco Use, Consumption, Possession by Minors".   |
| 11/26/2012                        | 2012-089      | Amending Chapter 10 "Landlord-Tenant Regulations", and <b>Chapter 52</b> "Offenses Against Public Peace – Safety and Morals", Relating to Ordinance Violations, Nuisance Activity, and Rental Properties.       |
| 1/14/2013                         | 2013-003      | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" Pertaining to Possession of Cannabis or Drug Paraphernalia.   |
| 4/8/2013                          | 2013-019      | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals", Section 52.02 "Disorderly Conduct", and Section 52.10 "Firearms and Air Guns".   |
| 6/10/2013                         | 2013-039      | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals". (Various Sections)   |
| Tabled<br>8/26/2013               | 2013-052      | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" by Adding Section 52.92 "Truancy". ( <a href="#">Consensus of Council to not act on this ordinance for lack of school input</a> )       |
| 1/13/2014                         | 2014-001      | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals", Section 52.10 "Firearms and Air Guns", Section 52.400 "Possession of Cannabis", and Section 52.410 "Possession of Drug Paraphernalia". |
| 11/23/2015                        | 2015-049      | Amending Chapter 52 "Offences Against Public Peace – Safety and Morals", Section 52.07 "Sound Apparatus".   |
| 11/23/2015                        | 2015-050      | Amending Chapter 52 "Offences Against Public Peace – Safety and Morals", Section 52.85 "Defacing Property".   |
| Tabled/<br>Withdrawn<br>3/14/2016 | 2016-002      | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" by Adding Section 52.92 "Unlawful Assemblies".  |
| Tabled/<br>Withdrawn<br>3/14/2016 | 2016-003      | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" by Adding Section 52.93 "Weapons at Unlawful Assemblies"  |
| 6/13/2016                         | 2016-016      | Adopting Comprehensive Revisions to Chapter 52 "Offenses Against Public Peace – Safety and Morals".   |

| Effective Date | Ordinance No. | Description of Amendment   |
|----------------|---------------|--|
| 4/24/2017      | 2017-022      | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" as it Relates to the Possession of Cannabis and Drug Paraphernalia.  |
| 4/23/2018      | 2018-017      | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals", Subsection 52.130 "Parental Responsibility."  |
| 2/10/2020      | 2020-005      | Amending Chapter 35 "Towing", <b>Chapter 52</b> "Offenses Against Public Peace – Safety and Morals", and Chapter 64 "Smoking Regulations" to Conform to New Cannabis and Tobacco Laws.                                       |
| 8/24/2020      | 2020-052      | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" by Adding Section 52.05 "Criminal Housing Management".   |
| 9/14/2020      | 2020-061      | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals", Section 52.02 "Disorderly Conduct", and Section 52.411 "Nuisance Gatherings", in Order to Prohibit the Violation of Emergency Public Health Orders. |
| 10/24/2022     | 2022-055      | Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals", Section 52.06 "Disorderly House", as it Pertains to Crime Free Housing Provisions.  |