

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 12th day of June 2023 and approved by me as Mayor on the same day. First Reading passed on May 22, 2023, by a 5-3 roll call vote. Aye: Larson, Smith, Perkins, Verbic, Barnes. Nay: Zasada, McAdams, Walker. Second Reading passed on June 12, 2023, by a 7-0-1 roll call vote. Aye: Zasada, Larson, Smith, Perkins, Verbic, Walker, Barnes. Nay: None. Absent: McAdams.




COHEN BARNES, Mayor

ATTEST:


Ruth A. Scott, Executive Assistant

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
8. Carries, displays, brandishes or implies the possession or use, in a threatening or menacing manner, without authority of law, any: i) firearm, rifle, shotgun, machine gun, pistol, revolver, dagger, razor, ~~dangerous~~ knife, stiletto, knuckles, slingshot, billy, stun gun or taser, crossbow, common or compound bows, underwater speargun, black-jack, sand-club, sand-bag, throwing star, nunchakus, ~~or~~ any broken bottle or other piece of glass, 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)

~~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

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

- 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.

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.

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

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-Methylenedioxypyrovalerone (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-methylbenzodioxymethylpropylamine (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.

- 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

- 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

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.

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 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 or 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

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

(\$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

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).

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

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.

- 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

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.

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 52.065, -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 ~~p~~Party 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

Municipal Code - City of DeKalb - Chapter 52 "Offenses Against Public Peace - Safety and Morals"

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 _____).

Effective Date	Ordinance No.	Description of Amendment
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). (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.)
4/13/1981	1981-029	Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" by Adding Section 52.35 "Noise Control Regulation".
Failed 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".

Effective Date	Ordinance No.	Description of Amendment
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 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 Chapter 52 "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
11/8/2010	2010-069	Amending Chapter 34 "Amusements", Section 34.01 "License", and Creating Section 34.06-5 "Boxing"; and Amending Chapter 52 "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 Chapter 52 "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 8/26/2013	2013-052	Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" by Adding Section 52.92 "Truancy". (Consensus of Council to not act on this ordinance for lack of school input)
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/ Withdrawn 3/14/2016	2016-002	Amending Chapter 52 "Offenses Against Public Peace – Safety and Morals" by Adding Section 52.92 "Unlawful Assemblies".
Tabled/ Withdrawn 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".