ORDINANCE 11-45  
Passed August 22, 2011

AMENDING THE MUNICIPAL CODE OF THE
CITY OF DEKALB, ILLINOIS, CHAPTER 38,
"INTOXICATING LIQUORS," SECTION 38.01,
"DEFINITIONS," SECTION 38.05,
"CLASSIFICATION OF LICENSES," SECTION
38.06 "AUDIT/FOOD AND ALCOHOL SALES,"
SECTION 38.09 "CONSUMPTION ON PREMISES,"
SECTION 38.21 "REGULATIONS AS TO PERSONS
UNDER THE AGE OF TWENTY-ONE (21)
YEARS,"
AND SECTION 38.23
"MISREPRESENTING AGE."

BE IT ORDAINED BY THE CITY COUNCIL of the City of DeKalb, Illinois, as follows:

Section 1. That the Municipal Code of the City of DeKalb, Illinois, Chapter 38, "Intoxicating Liquors", Section 38.01, "Definitions," be amended as follows:

38.01 DEFINITIONS

Brewery and Winery Establishment. A public place, consisting of no more than 2,500 square feet of public area, as defined in this Chapter 38, which is kept, used, maintained and advertised for the provision, sale and/or manufacture and/or dispensing of beer and/or wine, as defined herein, without sleeping accommodations, and having seating for at least ten (10) patrons at an area other than a bar area. Other items of a nature and use consistent with the consumption, dispensing, pouring, storage, manufacture and collection of beer and/or wine may also be sold on the premises. A brewery and winery establishment may offer its patrons foodstuffs for consumption on the premises, provided that such premises include adequate and sanitary kitchen and dining room equipment and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its patrons. A brewery and winery establishment may not have a bar area for the seating or direct use of patrons consuming alcohol without foodstuffs, which shall not exceed more than twenty-five percent (25%) of the public area of the premises. No curb service or delivery of beer and/or wine shall be permitted. No brewery and winery establishment may offer gasoline, ethanol, diesel or other fuel for sale. Through August 31, 2009, a brewery and winery establishment shall be located only within the geographic area zoned as “CBD” (“Central Business District”), as set forth in the official zoning map of the City of DeKalb, and additionally as bounded by the Kishwaukee River on the west, Seventh Street on the east, the Union Pacific Railroad Company tracks on the south and Locust Street on the north. The premises located at 263 East Lincoln Highway shall be considered a Brewery and Winery Establishment so long as the liquor license is held by the corporate licensee in existence as of September 1, 2010. Said licensee only shall be permitted to engage in the retail sale of beer and/or wine to persons of at least twenty-one (21) years of age for consumption on the premises. The BW licensee at 263 East Lincoln Highway may permit persons under the age of twenty-one (21) years to be upon the licensed premises. In the event the said licensee sells the business at 263 East Lincoln Highway, the City and Liquor Commissioner may approve a license for the transferee on the transferee's submission to the City Council of a business model for the new business operation and the City Council's approval of that business model on the same terms and conditions stated above for the present owner of the business on the premises at 263 East Lincoln Highway. (07-67)
Tastings. Notwithstanding any other provision of this Chapter a Class A, which sells at retail packaged liquor only, BW, D, or D-D licensee may conduct product sampling or tasting for the consumption of the alcoholic beverage permitted for sale under their respective license classification upon the licensed premises. Except as set forth in this section, a consumer may be served up to five (5) separate samples, each sample containing no more than: (i) one (1) ounce of wine; (ii) two (2) ounces of beer, or if applicable, (iii) one-quarter (1/4) ounce of liquor, in any one day. A Class BW, D or D-D licensee may offer a class, clinic or seminar to educate its patrons on alcoholic beverages and food items and, as a part of that class, clinic or seminar, may offer, in conjunction with the service of food items, up to eight (8) separate samples, each sample containing no more than: (i) one (1) ounce of wine; (ii) two (2) ounces of beer, or if applicable, (iii) one-quarter (1/4) ounce of liquor, in any one day. The licensee may charge a registration fee to defray the cost of offering the class, clinic or seminar.

Section 2. That the Municipal Code of the City of DeKalb, Illinois, Chapter 38, “Intoxicating Liquors”, Section 38.05, “Classifications of Licenses; Fees,” be amended as follows:

SECTION 38.05 CLASSIFICATION OF LICENSES; FEES (09-46, 10-15, 10-43)

5. A Class BW license, which shall authorize "Brewery and Winery Establishments", as defined in this Chapter, to engage in the retail sale of packaged beer and/or wine in intact, original packages to persons of at least twenty one (21) years of age for consumption off the premises, or to engage in the retail sale of beer and/or wine to persons of at least twenty one (21) years of age for consumption on the premises. Notwithstanding anything in this Chapter 38 to the contrary, the license for a Class BW license shall not extend to the sale of wine containing more than 20% alcohol by volume or beer containing more than 13% alcohol by volume. It shall be unlawful for a Class BW licensee to sell for off-premise consumption a single container of beer unless the volume of the container is equal to or greater than seven (7) fluid ounces. It shall be unlawful for a Class BW licensee to sell for off-premises consumption a single container of wine unless the container is greater than sixteen (16) fluid ounces or .473 liters. (07-67, 09-46)

Notwithstanding any other provision of this Chapter, a Class BW licensee may conduct product sampling or tasting for consumption of beer, wine and liquor upon the licensed premises. Except as set forth in this Section, a consumer may be served up to five (5) separate samples, each sample containing no more than: (i) one (1) ounce of wine, (ii) two (2) ounces of beer, or (iii) one-quarter (1/4) ounce of liquor, in any one day. A Class BW licensee may offer a class, clinic or seminar to educate its patrons on alcoholic beverages and food items and, as part of that class, clinic or seminar, may offer up to eight (8) separate samples, each sample containing no more than: (i) one (1) ounce of wine, (ii) two (2) ounces of beer, or (iii) one-quarter (1/4) ounce of liquor, in any one day. The licensee may charge a registration fee to defray the cost of offering the class, clinic or seminar.

Section 3. That the Municipal Code of the City of DeKalb, Illinois, Chapter 38, “Intoxicating Liquors”, Section 38.06, “Audit/Food and Alcohol Sales,” be amended as follows:

38.06 AUDIT/FOOD AND ALCOHOL SALES

All licensees holding a Class B, BW, E, E-E, I or J license, and those licensees holding a Class A, A-A or A-CBD license who sell food for consumption on the premises shall file with the Liquor Commissioner on or before March 1 of each year, an affidavit setting forth the percentage for the previous calendar year for food and alcohol sales. The licensee shall, at any other time, provide upon the request of the Liquor Commissioner, an audit report prepared by an independent certified public accountant, approved by the Liquor Commissioner, at the expense of the licensee for a time period designated by the
Liquor Commissioner. The Liquor Commissioner may cause a review audit, at the expense of the City, to be performed on any audit report provided by the licensee under this Section. (00-54, 04-52, 09-46, 10-41)

Section 4. That the Municipal Code of the City of DeKalb, Illinois, Chapter 38, “Intoxicating Liquors”, Section 38.09, “Consumption on Premises,” be amended as follows:

38.09 CONSUMPTION ON PREMISES

Other than samplings or tastings permitted under this Chapter, it shall be unlawful for anyone not having a Class A, A-CBD, A-A, B, BW, BY, C, C-C, CA, E, E-E, F, G, H, I, J, K, L or PA license to sell, or offer for sale or delivery any alcoholic liquor for consumption on the premises where sold. (92-43, 95-48, 96-70, 97-70, 04-52, 09-46, 10-41, 10-43)

PENALTY. Persons violating this Section shall be fined not less than Five Hundred Dollars ($500.00) nor more than One Thousand Dollars ($1000.00) for the first violation and One Thousand Five Hundred Dollars ($1,500.00) for the second violation and Two Thousand Five Hundred Dollars ($2,500.00) for the third or subsequent violation in a 12-month period. (90-15, 01-01, 09-46)

Section 5. That the Municipal Code of the City of DeKalb, Illinois, Chapter 38, “Intoxicating Liquors”, Section 38.01, “Definitions,” be amended as follows:

38.21 REGULATIONS AS TO PERSONS UNDER THE AGE OF TWENTY-ONE (21) YEARS

a) ENTERING AND REMAINING. No person under the age of twenty-one (21) years not accompanied by his parent or legal guardian shall enter or remain in any premises licensed by the City of DeKalb for the sale of alcoholic liquor at retail for any purpose whatsoever; except as provided for in Section 38.15 herein; except a person under the age of twenty-one (21) years may enter or remain in any premises licensed Class C, D, D-D, E, F or J in an area other than the bar area or the separate alcoholic liquor sales area of a grocery store with a Class D license or a specialty grocery market with a Class D-D, and may enter and remain in a premises licensed Class B, BW, E-E, H, I, K, L or PA. (76-72, 79-85, 80-45, 80-92, 81-35, 84-06, 97-70, 03-48, 04-25, 04-43, 04-52, 05-08, 10-41)

PENALTY. Any person violating this Section 38.21a shall be punished by a fine of not less than Three Hundred Dollars ($300.00) nor more than One Thousand Dollars ($1000.00) for each offense. (03-48, 04-79)

b) LICENSEE, AGENT, EMPLOYEE LIABILITY FOR ENTERING AND REMAINING. No licensee, his agent, or his employee shall permit or allow a person under the age of twenty-one (21) years not accompanied by his parent or legal guardian to enter or remain in the licensee's premises for any purpose whatsoever; except as provided for in Section 38.15 herein; except a person under the age of twenty-one (21) years may be allowed to enter or remain in any premises licensed Class C, D, D-D, E, F or J in an area other than the bar area or the separate alcoholic liquor sales area of a grocery store with a Class D license or a specialty grocery market with a Class D-D license, and may enter and remain in a premises licensed Class B, BW, E-E, H, I, K, L or PA. (79-85, 80-45, 80-92, 81-35, 84-06, 03-48, 04-25, 04-43, 04-52, 05-08, 09-46, 10-41)

PENALTY. Any employee or agent of the licensee violating this Section 38.21b shall be punished by a fine of not less than Three Hundred Fifty Dollars ($350.00) nor more than One Thousand Dollars ($1000.00) for each offense. Licensees are also subject to penalties provided in Section 38.28-1. (03-48, 04-79, 09-46)
h) LICENSEES’ DUTY TO POST. All premises licensed Class A or BW shall have displayed, in a conspicuous place at each entrance so as to be clearly visible at all times to any person entering the premises, and any premises licensed Class A-CBD, C, E, F or J shall have displayed, in a conspicuous place so as to be clearly visible at all times to any person entering the bar area of said premises, with the following notice: (04-25, 09-46)

YOU MUST BE 21 YEARS OLD TO ENTER THESE PREMISES*
The use or possession of false or altered identification may result in the suspension of your driver’s license.
By Ordinance, persons charged with the following offenses shall be subject to the corresponding fines:

<table>
<thead>
<tr>
<th>OFFENSES AND PENALTY FOR CONVICTION</th>
<th>Minimum</th>
<th>Maximum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Entering or Remaining in a Licensed Liquor Establishment</td>
<td>$300.00</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>Misrepresenting Age</td>
<td>$250.00</td>
<td>$750.00</td>
</tr>
<tr>
<td>Failure to Carry Identification</td>
<td>$250.00</td>
<td>$750.00</td>
</tr>
<tr>
<td>Consumption or Possession of Alcohol as a Minor</td>
<td>$200.00</td>
<td>$750.00</td>
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</tbody>
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* Unless Accompanied by a Parent or Legal Guardian

The Liquor Commissioner shall initially furnish each liquor license holder with a sufficient number of signs to comply with the provisions of this Section. Replacement signs may be purchased from the City at a fee of Five Dollars ($5.00) per sign. (84-06, 00-52, 03-48)

Section 6. That the Municipal Code of the City of DeKalb, Illinois, Chapter 38, “Intoxicating Liquors,” Section 38.23, “Misrepresenting Age,” be amended as follows:

38.23 MISREPRESENTING AGE

a) FALSE IDENTIFICATION. No person under the age of twenty-one (21) years shall present or offer to any licensee, his agent or employee, any written, printed or photo static evidence of age and identity which is false, fraudulent, or not actually his own for the purpose of violating any prohibited conduct specified in Chapter 38.21 hereof. (03-48)

b) IDENTIFICATION REQUIRED. Any person entering or remaining in a Class A or BW licensed establishment or within the bar area in a Class A-CBD, C, E or F licensed establishment, shall have in their possession while remaining in such establishments or areas of such establishments, an identification card or some other form of positive identification with such person's picture imprinted on it showing their correct date of birth and issued by some public officer in the performance of his official duties. However, no person twenty-one (21) years of age or older charged with violating this Section shall be fined or convicted if he produces in court satisfactory evidence of his age and identity. (00-16, 03-48, 09-46)

PENALTY. Any person violating this Section shall be punished by a fine of not less than Two Hundred Fifty Dollars ($250.00) nor more than Seven Hundred Fifty Dollars ($750.00) for each offense. (90-15, 91-31, 95-48, 00-16, 03-48)
Section 7. That each section, paragraph, sentence, clause and provision of this ordinance is separable and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this ordinance, nor any part thereof, other than that part affected by such decision.

Section 8. That except as to the amendments heretofore mentioned, all Sections of the Municipal Code of the City of DeKalb, Illinois shall remain in full force and effect.

Section 9. Upon its passage and approval according to law, this Ordinance shall, by authority of the City Council be published in pamphlet form. On the tenth day after the date of publication, this Ordinance shall be in full force and effect. Publication date: August 23, 2011. Effective date: September 2, 2011.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a regular meeting thereof held on the 22nd day of August, 2011, and approved by me as Mayor on the same day. Received and filed by voice vote on August 8, 2011. Passed on second reading, August 22, 2011 by roll call vote: 6-1. Aye: Jacobson, Teresinski, Lash, Gallagher, Baker, O'Leary. Nay: Naylor.

ATTEST:

[Signatures]

STEVE KAPITAN, City Clerk

KRIIS POVLSEN, Mayor