ORDINANCE 14-01    Passed: January 13, 2014

AMENDING THE MUNICIPAL CODE OF THE
CITY OF DEKALB, ILLINOIS CHAPTER 52,
"OFFENSES AGAINST PUBLIC PEACE –
SAFETY AND MORALS,” SECTION 52.10,
FIRE ARMS AND AIR GUNS, SECTION 52.400,
POSSESSION OF CANNABIS, SECTION 52.410,
POSSESSION OF DRUG PARAPHERNALIA.

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

WHEREAS, the City of DeKalb is an Illinois Home Rule Municipality located in DeKalb County, Illinois and pursuant to its Home Rule authority and the applicable provisions of the Illinois Municipal Code regulates certain conduct which constitutes an offense against the public health, welfare, safety and morals as codified in Chapter 52 of the City Code of Ordinances; and,

WHEREAS, the City has heretofore regulated the possession and consumption of cannabis and certain other drug paraphernalia, and has regulated the possession and use of firearms, airguns and lookalike weapons within the City of DeKalb; and,

WHEREAS, the State of Illinois has now passed certain legislation of statewide application, which legislation precludes the use of Home Rule Authority, and which permits the carrying of concealed firearms under certain limited circumstances; and,

WHEREAS, the State of Illinois has further passed certain legislation of statewide application, which legislation precludes the use of Home Rule Authority, and which permits the possession and consumption of cannabis and the possession of cannabis-related paraphernalia for medicinal purposes, after obtaining and properly displaying a medicinal marijuana card and in compliance with all applicable regulations; and,

WHEREAS, the City is thus obligated to comply with the State law by amending its ordinances to reflect the preemption of Home Rule on a limited basis, and whereas the City contemplates the likelihood of changes in the State laws that are likely to impact City ordinances, thus generating the need to adopt a change to City Code that will accommodate those predicted changes in State law; and,

WHEREAS, the City of DeKalb determines and finds that the ordinance updates as reflected below are necessary and proper, are in the public interest, and protect the public health, welfare, safety and morals;

NOW THEREFORE, be it ordained by the Mayor and City Council of the City of DeKalb as follows below:

Section 1. Section 52.10 Amended

Section 52.10 of the City Code of Ordinances shall be amended with the addition of Subsection (i) as follows:
(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.

Section 2. Section 52.400 Amended

Section 52.400 of the City Code of Ordinances shall be amended with the addition of Subsection (d) as follows:

(d) State-Licensed Medicinal Marijuana:

1) Notwithstanding any of the foregoing prohibitions or any other applicable City regulation, the lawful possession or use of marijuana, for medicinal and therapeutic reasons, 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 medicinal marijuana 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 medicinal marijuana permit or to give false information to a police officer regarding the existence, validity or other facts relating to the issuance of such a medicinal marijuana permit. It shall be unlawful to use or attempt to use a medicinal marijuana permit belonging to any other person. It shall be unlawful to possess a fraudulent, forged or false medicinal marijuana 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 medicinal or therapeutic 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.

Section 3. Section 52.410 Amended

Section 52.410 of the City Code of Ordinances shall be amended with the addition of Subsection (g) as follows:

(g) State-Licensed Medicinal Marijuana:

1) Notwithstanding any of the foregoing prohibitions or any other applicable City regulation, the lawful possession or use of drug paraphernalia, for medicinal and therapeutic reasons, 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 medicinal marijuana permit, shall not be unlawful under City Code. Any violation of applicable State regulations shall render the immunities of this section (g)(1) inapplicable.

2) It shall be unlawful to display a false, fraudulent, forged, expired, misleading or otherwise invalid medicinal marijuana permit or to give false information to a police officer regarding the existence, validity or other facts relating to the issuance of such a medicinal marijuana permit. It shall be unlawful to use or attempt to use a medicinal marijuana permit belonging to any other person. It shall be unlawful to possess a fraudulent, forged or false medicinal marijuana permit. A violation of this subsection (g)(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 medicinal or therapeutic use or possession of drug paraphernalia. 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 (g)(3) shall be punishable by a fine of not less than Seven Hundred and Fifty Dollars ($750.00), plus Court Costs.

Section 4. 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 5. 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 6. 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: January 14, 2014. Effective date: January 23, 2014.


ATTEST:

[Signatures]

ELIZABETH E. PEERBOOM, City Clerk

JOHN A. REY, Mayor