
AMENDING THE MUNICIPAL CODE OF
THE CITY OF DEKALB, ILLINOIS,
CHAPTER 32, “BUSINESS
REGULATIONS,” SECTION 32.08,
“SOCIAL CLUBS.”

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 has established regulations addressing the permitted locations and permitted conditions of operation for certain types of businesses and establishments, as well as establishing licensing procedures for said businesses; and,

WHEREAS, said regulations are intended to protect the public health, safety, welfare and morals through ensuring that businesses are properly sited at locations that provide proper access and public services, along with ensuring that businesses are located in areas that are harmonious to surrounding uses; and,

WHEREAS, the City has determined that certain uses or types of businesses which are either new to the City of DeKalb, have new applications or implications and which have the potential to significantly impact public health, welfare, safety or morals; and,

WHEREAS, the City has witnessed changes in crime patterns within the City and has noted, from past experience with such organizations, that certain types of social clubs or similar gathering establishments generate a disproportionate amount of crime and demand for public services, and create an undue impact upon surrounding businesses and property owners. The City maintains existing regulations with regard to “Teen Clubs”, but has determined, based upon a preliminary review of other area communities’ regulations, that the City’s current ordinance provisions require updating and revision. In the absence of such revision, such establishments could be operated in a fashion as to generate a public safety concern and an increase in crime, as was experienced in the past. The City has determined that such establishments accordingly may present a threat to public health and safety that merits initial regulation, followed by careful study, followed by the imposition of permanent regulations; and,

WHEREAS, in order to permit the free flow of commerce while nonetheless imposing reasonable restrictions intended to protect the public health, safety, welfare and morals, the City Council has determined that it is appropriate to implement business licensure restrictions intended to address the foregoing concerns; and,
WHEREAS, the City of DeKalb determines and finds that the provisions 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. Ordinances Amended:

City Code Chapter 32, Section 32.08 shall be amended as follows:

32.08 Social Clubs

a. Definition of Social Club: Any business or organization which is open to the public (either generally open or available through the purchase of tickets or entry), the primary function of which is to offer, provide, procure, make available, allow, suffer or permit entertainment to patrons, consisting of dancing and/or the enjoyment of live or pre-recorded music, and/or the enjoyment of entertainment provided by dancers, comedians, fighters/boxers/martial-artists or other performers, with or without food, in an indoor venue. A Social Club shall not include: a) an establishment with a valid liquor license issued by the City of DeKalb; b) theaters which seat patrons in parallel rows of fixed seats, with seating capacity of 1,000 patrons or more; c) outdoor performances; d) any business, organization or event conducted by a component part of a unit of government; e) full service restaurants that feature background music incidental to the primary function of serving food; f) movie theaters with at least 4 separate theaters, each with fixed seating for 100 patrons or more; or, g) fraternities or sororities that are recognized by, registered with and affiliated with Northern Illinois University and which have a then-current charter/approval from the University.

b. License Required: It shall be unlawful to operate a Social Club, either as a fixed use within an establishment or as a temporary or special event, without first obtaining a license issued by the City of DeKalb. Violation of this Ordinance shall be punishable by a fine of not less than Seven Hundred and Fifty Dollars ($750.00) per occurrence, and each day that a violation exists shall be deemed to be a separate occurrence. In addition, in the event that the City proves a violation of this Ordinance, the City shall be entitled to recover any costs incurred by the City in responding to the violation or the entity generating the violation, including but not limited to personnel and equipment costs for police or fire department responses to the establishment, or to patrons entering or exiting the establishment.

c. License Application and Process:

i. Application shall be made to the City of DeKalb for a license under this Ordinance on a form acceptable to the City Manager, substantially in the form of a liquor license application and containing the same information as required on a liquor license application, with such additional information as shall be required
by the City Manager or designee (including details of operation, parking arrangements and any other required information). The applicant shall be required to provide a detailed security plan for review and approval by the Chief of Police or designee, and shall be required to designate one or more managers, at least one of whom shall be on premises at all times that the establishment is in operation.

ii. Applicants shall be required to comply with the provisions of City Code Section 38.06 for provision of insurance (other than dram shop insurance). Proof of insurance shall be required at time of application.

iii. Applicants shall be required to obtain a Fire Life Safety License for their proposed establishment prior to applying for a license under this Ordinance. Applicants shall also be required to complete any other City applications and obtain any other City permits, permissions or inspections prior to application for a license under this Ordinance.

iv. Prior to issuance of a license under this Ordinance, the proposed establishment shall be fully built-out and shall have been issued a certificate of occupancy. The establishment must be in full conformance with all applicable local, state and federal regulations.

v. After satisfying all conditions precedent as outlined above, successfully completing a background check for all owners and managers of the facility (utilizing the procedure utilized for liquor license applications) and then submitting a completed application and posting the application deposit, the City shall thereafter have a period of forty-five (45) days for staff review and evaluation of the application. Staff review shall include any recommendations regarding public safety concerns, appropriateness of siting and zoning, available parking, proximity to schools or other age-sensitive installations, noise generation, adequacy of site lighting, and any other relevant considerations. If any conditions are discovered during such review that constitute a violation of any applicable law, code, regulation or ordinance, the forty-five (45) day review period shall be tolled until such point as the premises is brought into compliance with applicable codes.

vi. Following staff review, the matter shall be forwarded to the City Council of the City of DeKalb at a meeting occurring within forty-five (45) days of the date on which staff review is completed. The City Council shall be provided with all staff recommendations and shall make the ultimate decision as to whether a license should be granted or denied.

vii. Submission of a signed application for a license and/or acceptance of a license under this ordinance constitutes the applicant's consent to an inspection of any and all portions of the licensed premises by the City: 1) at any time during the normal business hours of the licensed premises, with or without advance notice;
or, 2) at such other time as the City shall designate to the applicant/licensee in writing, with not less than 48 hours advance notice. Inspections pursuant to this consent may be conducted by any City personnel, including Police Department, Building, Public Works, or Fire Department staff, the City Attorney, the City Manager or other staff authorized by the City Manager, for purposes of determining compliance with the provisions of this ordinance, or for purposes of determining compliance with any other applicable code or regulation. The consent for inspection shall extend to any portion of the premises. An applicant or licensee's refusal to grant access to the premises for an inspection shall constitute grounds for denial of a pending application (without refund of any posted application fees), and shall constitute a violation of this ordinance for license holders, which may subject a licensee to suspension or revocation of their license, imposition of fines and penalties under this ordinance, or both. All holders of a license must also hold a valid Fire Life Safety License issued by the City.

d. Issuance of License: Upon conclusion of any consideration of a license application, the City Council may grant or deny the license application. A license application may be continued from time to time, and the City Council may require the conduct of a public hearing on the application; any publication or notice costs for the public hearing shall be borne by the applicant. In approving a license, the City Council shall be authorized to impose conditions on the license issuance relating to the conduct of the Social Club, the provision of parking, security, site improvements, or such other terms as the City Council shall determine are necessary and appropriate to ensure public safety. A license approved under this Ordinance may have a term that requires the license to be submitted to City Council for renewal, or may be subject to renewal by the Mayor or City Manager; the mechanism for renewal shall be described at the time of initial issuance.

i. Conditional Approval of License: The City Council may, but shall not be obligated to, approve social club licenses for licensees who are otherwise eligible for issuance of a license, but whose place of business has not been built-out, has not received a Fire-Life Safety License, is not yet eligible for issuance of a final certificate of occupancy or is otherwise ineligible for operation because of non-compliance with any other City Code or requirement. Such conditional licenses shall not permit occupancy of the premises until such point in time as all required City permits and approvals have been received by the Licensee. At such time as all other required City permits and approvals, including but not limited to a certificate of occupancy and final inspection, have been provided, a conditionally issued license shall convert to an unconditional license, subject to the terms of this Chapter 32. Should a Licensee fail, within a time specified by the City Council, to obtain all required City permits and approvals including but not limited to a certificate of occupancy, the City Manager shall be authorized to revoke the conditional license without any requirement of holding a public hearing or providing any due process. Any applicant/Licensee who requests a conditional license under this subsection shall execute a waiver agreeing and
acknowledging the terms of this subsection, including the provisions relating to revocation.

e. License Fees: The fee for applying for, obtaining and renewing a Social Club License, and the term of such license, shall be the same as that utilized by the City of DeKalb for a Restaurant Liquor License under the then-current terms of Chapter 38 of the City Code of Ordinances.

f. Suspension or Revocation of License: The City may utilize any process outlined in City Code for the suspension or revocation of any City-issued license as the process for suspension or revocation of the license contemplated herein. Licenses may be suspended or revoked for any violation of any applicable code, ordinance or statute.

g. Additional Restrictions:

i. It shall be unlawful to possess, sell, dispense, or permit to be possessed, sold or dispensed any item at a Social Club which is either unlawful to sell or dispense, or which is regulated for distribution by age (e.g. alcohol, tobacco or similarly age-restricted items). The licensee shall maintain adequate security procedures to ensure that no person enters the establishment in violation of these provisions.

ii. Once admitted to the Social Club, a person shall not be permitted to exit and re-enter the premises sooner than the following business day (with business day defined based upon the hours of operation of the establishment, and not occurring before such time as the establishment has fully closed and subsequently reopened).

iii. The hours of operation for a Social Club shall be fixed by the terms of licensure.

iv. Any Social Club shall have illumination of at least 5 foot candles at floor level at all times that the Social Club is in operation.

v. It is the licensee’s duty to prevent loitering, nuisances or disturbances of the peace by patrons of the Social Club on the premises or in the immediate vicinity thereof, and to clean all litter and remediate all graffiti or other damage generated by patrons of the Social Club on the premises or in the immediate vicinity thereof, within two hours of Social Club closure on any given day.

vi. No licensee, his agent or employee shall allow or permit any person to perform acts of or acts which simulate: a) sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law; b) the actual or simulated touching, caressing or fondling of the breast, buttocks, anus or genitals; c) the actual or simulated displaying of the pubic hair, anus, vulva or genitals; d) the actual or simulated displaying of the breast so as to expose the nipple of the female breast; e) the displaying of films or pictures depicting acts, a live performance of which is prohibited by a), b), c) or d) above.
No licensee, his agent or employee shall allow or permit any person to remain in or upon the licensed premises who exposes in public view any portion of his or her genitals or anus.

vii. Each licensee shall provide at least one public telephone for outgoing calls only for each 125 patrons (based upon the maximum occupancy of the premises). No licensee shall permit sound or vibration exceeding 90 decibels measured with a standard meter "A" scale within two feet of any public telephone receiver or audible at such level on the outside of any exterior wall of the premises located more than ten feet from a doorway of the licensed premises. No public telephone shall be provided on the premises for incoming calls.

viii. The license issued hereunder shall be non-transferrable and non-assignable, issued to the license holder only. The determination of what constitutes a transfer or assignment of the license shall utilize the same procedure and regulations as applicable to a liquor license.

ix. The licensee shall deliver to the chief of police, no later than 72 hours before any scheduled special event occurring at a licensed premises, true and accurate copies of any and all advertisements of whatever nature therefore used to advertise or promote the event. The licensee shall also include prior to any such advertised event:

(1) The number of employees and/or performers to be used for the event;

(2) Designation of the individual who will be available prior to and during the event and who shall have authority to accept complaints, notice of violations, or take corrective action as required by proper officials of the city;

(3) A security plan with an acknowledgment that any changes to the security plan must be submitted to the chief of police in writing one business day before the event, and the security plan must be followed without any changes unless such change has been submitted to the chief of police in writing and he has approved it prior to the event being opened;

(4) Security personnel shall be required for the maximum capacity of the event as determined by the maximum occupancy of the premises under city's ordinance unless attendance is limited to a lesser number;

(5) Inspections may be conducted by the city to ensure compliance with its
codes and ordinances;

(6) No members of the general public shall be allowed admittance prior to the opening of the event;

(7) Only one such event per evening shall be allowed;

(8) Automatic counters are required to be used prior to entry into the licensed premises to determine occupancy of the premises;

(9) Tickets may be sold before the event with the number of tickets sold limited to the occupancy limit of the premises for patrons, and after all said tickets have been sold, the licensee shall post a sign stating that the event is "Sold Out."

Section 2. 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 3. That except as may be in direct conflict with any provision of this ordinance, all Sections of the Municipal Code of the City of DeKalb, Illinois shall remain in full force and effect.

Section 4. The City Council, based upon the findings in the recitals, determines that there exists a public safety emergency that requires this Ordinance to take effect immediately upon passage, and incorporates this recital to that effect.


ATTEST:

ELIZABETH E. PEERBOOM, City Clerk

JOHN A. REY, Mayor