ORDINANCE 13-50    Passed: August 26, 2013

AMENDING THE MUNICIPAL CODE OF THE
CITY OF DEKALB, ILLINOIS, CHAPTER 34
MASS GATHERINGS AND AMUSEMENTS, AND
DELETING CHAPTER 36, "BOWLING
CENTERS."

WHEREAS, the City of DeKalb, DeKalb County, Illinois is a home rule community with those powers granted under the provisions of the Illinois Constitution and the Illinois Municipal Code, 65 ILCS 5/1-1-1, et. seq.; and,

WHEREAS, the City of DeKalb currently maintains Chapter 34 of the City Code, which relates to amusements, and wishes to make certain updates to said Chapter, and Chapter 36 of the City Code which relates to Bowling Alleys; and,

WHEREAS, the City has experienced a number of gatherings of a significant number of people that have resulted in lawless activity, and has experienced tragic accidents involving the death or injury of members of the public attending mass gatherings conducted as commercial activities; and,

WHEREAS, the City of DeKalb City Council has determined that it is necessary to regulate such mass gatherings in order to properly and adequately protect the public health, safety, welfare and morals; and,

WHEREAS, the City Council determines that there is an urgent public need that will be mitigated by the passage of this ordinance, and hereby includes a statement of urgency and direction that the ordinance take effect immediately upon passage and approval, having made all required findings for such immediate effect;

THEREFORE BE IT ORDAINED by the Mayor and City Council of the City of DeKalb, DeKalb County, Illinois, as follows:

Section 1. Ordinance Amended.

A. Chapter 34 of the City Code of Ordinances shall be retitled Mass Gatherings.

B. Chapter 34 of the City Code of Ordinances, Sections 34.01 through 34.07 shall be amended as follows:

34.01 Definitions:
Commercial Event: Any event that includes any commercial component, such as events that: a) require a fee to attend or participate, or to purchase any food, beverage or other item at such event; b) involve the award of prizes of any commercial or monetary value based upon entry or participation; c) are conducted or sponsored by any for-profit commercial entity; d) are conducted for the monetary, commercial or pecuniary gain of any individual, company or entity; e) are conducted on the premises of any for-profit company or entity; f) that involves any transaction that is subject to the collection of any government-mandated tax or fee (including but not limited to sales tax or Restaurant & Bar Tax); or, g) that involves any flea market.

Non-Commercial Event: Any event other than a Commercial Event.

Flea Market: A market or gathering for the selling of commercial or household goods and curios, conducted outdoors or within a building, where multiple vendors gather with temporary structures or temporary sales areas for the purpose of engaging in commercial activity.

Hazardous Activity: Any activity deemed to be hazardous activity by the City Manager of the City of DeKalb, expressly including (but not limited to): a) events that include any form of boxing, kickboxing, wrestling, martial-arts or other physical fighting or combat with or without weapons (whether for sport, exhibition or amusement); b) events that include the discharge of any firearms or pyrotechnics; c) any circus, carnival, exhibition of live animals, or event that involves the use of temporary amusement rides; d) any car show involving moving automobiles in any format, any monster truck rally or show, or event that involves a driving competition or display of driving skill or vehicle speed or ability in any format; or, e) any haunted house or other similar temporary display or any temporary amusement display.

Private Property: Property that is not owned by the City of DeKalb or by an entity identified in subsection 34.03(a), below.

34.02 Permit Required:

It shall be unlawful to organize, sponsor, promote, host or permit to occur any gathering or event that requires a permit under the terms of this Chapter, without first having lawfully obtained such a permit. Each event shall require a separate permit, with one permit covering the entirety of the event. Events may require permitting under more than one City Code.

34.03 Exempt Properties or Events:

a) Any event or gathering conducted solely on property owned by the United States government, the State of Illinois, the DeKalb Park District or the DeKalb Community Unit School District No. 428 shall be exempt from the requirement of obtaining a permit under this Chapter, provided that such event or gathering is conducted with the consent of, and in accordance with all requirements imposed by, such owner.

b) Where any event is separately permitted by the City of DeKalb (e.g. an Outdoor Special Event conducted by a licensed liquor retailer within the City), the City Manager may
choose to waive the requirement of obtaining a permit under this Chapter 34.

c) Any event conducted solely as a Non-Commercial Event, the purpose of which is solely to conduct a rally, march, demonstration, discussion or speech that constitutes non-commercial speech on a matter of public interest, including but not limited to political or religious speech, shall be exempt from the requirements of this Chapter unless such event: 1) includes any Hazardous Activity; or, 2) will require the planned closure or interruption of any public street.

d) Any auction conducted by a Illinois-licensed auctioneer shall be exempt from the requirement of obtaining a permit under this Ordinance, provided that the auctioneer must provide not less than 5 business days notice to the City of its intent to conduct any auction that will be conducted in whole or in part outside of a permanent structure or that is anticipated to have more than 100 persons in attendance. The licensed auctioneer shall be responsible for ensuring the safe conduct of any auction. In the event that the City Manager becomes aware of any auctioneer conducting an auction in a fashion that generates a public disturbance or a threat to the public health, welfare, safety or morals, the City Manager is authorized to notify such auctioneer that all future auctions conducted by said auctioneer within the corporate limits of the City of DeKalb shall not be exempt, and shall require a permit if otherwise required under this Chapter 34.

34.04 City-Owned Properties:

a) A permit is required to conduct an event in whole or in part on any property, including streets, sidewalks or rights of way, owned by the City of DeKalb where such event:

1) Is a Commercial Event;
2) Is an event including any Hazardous Activity;
3) Is an event that will involve the use of any temporary structure (e.g. a tent requiring any poles and rigging, but not to include a self-standing, pop-up tent smaller than 200 square feet) or temporary utility services that require a permit or inspection under any applicable code or regulation;
4) Is an event that will require the planned closure or interruption of any public street, parking lot, park, right of way, or other City-owned property; or,
5) Is a Non-Commercial Event that is planned or reasonably anticipated to have attendance in excess of 200 persons.

34.05 Private Property:

a) Commercial Events:

1) A permit is required for any Commercial Event conducted on private property where such event:

i) Is ticketed or reasonably anticipated to have, or actually does have, attendance in excess of the legally-established occupancy limits for the
building in which such event is proposed to be conducted at one time;

   ii) Is contemplated to be conducted at least partially outside of a fully-
       enclosed, permanent structure (i.e. at least partially outside and/or in
       temporary structures or tents) and is ticketed or reasonably anticipated to
       have, or actually does have, attendance in excess of 100 persons at one
       time;

   iii) Includes any Hazardous Activity;

   iv) Is an event that will involve the use of any temporary structure or
       temporary utility services that require a permit or inspection under any
       applicable code or regulation;

   v) Is an event that will require the planned closure or interruption of any
       public street, parking lot, park, right of way, or other City-owned property;

   vi) Is an event that includes the sale or distribution of any age-restricted
       product, commodity, item or service; or,

   vii) Requires the use or aggregation of more than one parcel of land or the use
       of any off-site parking arrangements to accommodate expected
       attendance.

b) Non-Commercial Events:

   1) A permit is required for any Non-Commercial Event conducted on private
       property where such event:

       i) Is ticketed or reasonably anticipated to have, or actually does have,
          attendance in excess of the legally-established occupancy limits for the
          building in which such event is proposed to be conducted at one time;

       ii) Is contemplated to be conducted at least partially outside of a fully-
           enclosed, permanent structure (i.e. at least partially outside and/or in
           temporary structures or tents) and is ticketed or reasonably anticipated to
           have, or actually does have, attendance in excess of 200 persons at one
           time;

       iii) Includes any Hazardous Activity;

       iv) Is an event that will involve the use of any temporary structure or
           temporary utility services that require a permit or inspection under any
           applicable code or regulation; or

       v) Is an event that will require the planned closure or interruption of any
           public street, parking lot, park, right of way, or other City-owned property.

34.05 Permit Application

   a) Any person conducting an event which requires a permit under this Chapter 34
      shall apply for said permit on an application form approved by the City Manager, providing such
      information as the City Manager shall determine. The fee for said application shall be $200 per
      event, per day, which fee may be waived at the discretion of the City Manager for Non-
      Commercial events conducted by bona fide, lawfully organized not for profit or tax exempt
      entities or for private, non-commercial events. Permit applications shall be submitted not less
than thirty (30) days prior to the anticipated date of the event. The City Manager shall be authorized to establish minimum standards for the conduct of any event requiring a permit hereunder.

b) The permit application shall be accompanied by a site plan showing the proposed location and orientation of the event, and identifying: i) applicable occupancy limits; ii) temporary or permanent sanitation facilities; iii) all points of emergency ingress and egress; iv) any temporary structures, tents, facilities, generators or utility connections anticipated to be utilized; and, v) the parking arrangements for anticipated attendees, showing that all anticipated attendees can be safely accommodated by planned parking. The site plan shall be accompanied by written letters from the owners of each parcel identified for use on the site plan (other than property owned by the applicant), consenting to the use of their property for the event.

c) The applicant shall be responsible for all costs of inspection or permitting for any inspection or permit which is required under applicable City Code. In addition, all permits shall be subject to review by the City of DeKalb Police Department, Fire Department and Public Works Department, which shall be authorized to require additional or supplemental inspections based on the nature of the proposed event; the cost of any such inspections shall be borne by the applicant. Any building within which an event including Hazardous Activity is proposed to be conducted within shall require a supplemental fire and public works inspection prior to issuance of a permit for the event. The schedule of fees for any required inspections shall be based upon a current schedule established by each respective Department Head.

d) For any Commercial Event or any event which requires a permit and is to be conducted on City-owned property, the applicant shall be responsible for entering into an agreement with the City of DeKalb which identifies a single person legally responsible for the ultimate collection and payment of any governmental fines, penalties, taxes or fees due in connection with the event, and which specifies any specific rules or regulations applicable to the event (including but not limited to regulations relating to the sale of any age-restricted items or services or the conduct of any Hazardous Activities).

1) Said agreement shall be in a form acceptable to the City Manager, and the City Manager is authorized to negotiate and enter into such agreements on behalf of the City. In the case of any event that is identified by any City Department as requiring supplemental City services (e.g. an event with Hazardous Activity that the Fire Department determines requires standby ambulance service, an event that the Police Department determines requires supplemental police patrol, or an event that requires Public Works supervision and/or road closure, inspections or utility connections), the agreement shall require that the applicant post a cash escrow in an amount estimated to be adequate to cover the anticipated costs of such supplemental services prior to issuance of an event permit, and shall require that the applicant be responsible for the actual costs incurred by the City in providing any service, patrol, response, or other matter that requires an expenditure of City resources, services or funds in responding to, managing or patrolling such event or any conduct or occurrence arising out of such event.

2) Said agreement shall provide that the applicant shall be responsible for the
payment of any cleanup, restoration, remediation or other similar expenses incurred by the City or any private property owner not affiliated with the event, occurring as a result of the event.

3) For any Commercial Event or event involving a Hazardous Activity, temporary structure, temporary utility connection or closure of a public street or road of way, said agreement shall also require the applicant to provide a certificate of insurance evidencing general commercial liability insurance coverage for the event and/or the premises at which the event is to be conducted, from an insurer licensed to do business in the State of Illinois, with policy limits not less than $1,000,000 per person, per occurrence, and listing the City of DeKalb as additional primary insured without right of subrogation.

e) The applicant shall also be responsible for submitting a security plan providing for the safe and orderly conduct of the event in a fashion that protects the public health, safety, welfare and morals and minimizes or eliminates impact on surrounding property owners and the general public.

f) The City Manager or his designee shall be authorized to approve or reject any permit application based on the facts and circumstances before him. An event permit may be rejected based upon other events or occurrences known to be occurring within the City at the proposed time of the event, or based on City staffing needs at the time of the proposed event. No permit shall be issued to any person who is a debtor on any obligation of any form owed to the City of DeKalb. The City Manager shall be authorized to coordinate between different types of event permits or applications that may be required under various City Codes and to utilize the event permit process herein described to satisfy such other permit requirements if deemed appropriate by him.

g) Once issued, an event permit may be revoked at any time without notice, by any City employee, based upon the observation or identification of any actual or potential significant threat to public health, welfare, safety or morals, or any observed violation of City Code. If an event permit is revoked, the application shall immediately terminate the event, remove all attendees of the event, remove all temporary structures utilized for the event, and return the premises to its pre-event condition.

34.06 Penalties.

A violation of any provision of this Ordinance shall be punishable by a fine of not less than Five Hundred Dollars, plus Court Costs. In addition, violators of this section shall be liable for restitution costs to the City of DeKalb and any other public entity that utilizes public employees to respond to any event or licensed facility to provide police, fire or other similar services.

C. Chapter 36 of the City Code of Ordinances shall be retitled Amusements.
D. Chapter 36 of the City Code of Ordinances shall be established as follows.

36.01 Amusement Devices

a) License Required. It shall be unlawful for any person to operate within the City an amusement device, either for gain or not, in any place of public resort, without a license therefor.

b) Definitions.

"Amusement Device" shall mean any machine, apparatus, contrivance, appliance, or device which may be operated or played involving in its use either skill or chance, including, but not limited to pool table, billiards, bumper pool, tape machine, card machine, pinball machine, bowling game machine, shuffleboard machine, marble game machine, horse racing machine, shuffleboard machine, basketball machine, baseball game machine, football game machine, dart game, electronic video game, or any other similar mechanical or electronic game machine or device. Amusement Device shall not include any video gaming device licensed pursuant to Chapter 38 of the City Code of Ordinances.

"Proprietor" shall mean the person in whose place of business any such amusement device is placed for the use, amusement, patronage or recreation of the general public or members and guests of any club.

"Place of Public Resort" as used in this section shall mean any premises wherein any service or merchandise is offered for sale to the public or where tables or implements of any kind for playing any game of amusement are kept for use by the general public or by members and guests of any club.

"Person" shall mean any corporation, association, partnership, club, society or individual.

c) License Fee. The fee for licenses under this Section 36.01 shall be Twenty-Five Dollars ($25.00) per device per year or portion thereof. For an arcade, defined as a business consisting solely of Amusement Devices, an annual fee of Five Hundred Dollars ($500.00) to cover thirty (30) or more devices. Applications for renewal shall be made no later than April 30th of each year. Renewal applications shall include a late fee of an additional Twenty-five Dollars ($25.00) per device for each month or portion thereof submitted after April 30th. The term of licensure shall be from May 1 to April 30.

d) Application for License. Application for licenses for any amusement device shall be made by the proprietor in whose place of business any such amusement device is placed for the use, amusement, patronage, of use, or recreation of the general public or members and guests of a club and shall be signed by the applicant, if an individual; by a partner in the case of a partnership; or by an officer in the case of a corporation, club, association, or society, verified by oath or affidavit; and shall contain the following information:

1. The name, address, age, date and place of birth of the applicant, if an
individual; the names, addresses, ages, and dates and places of birth of all general or limited partners, if a partnership; the names, addresses, ages, dates and places of birth of all officers and directors of the corporation, club, association or society, if a corporation, club, association or society.

2. Prior convictions of the applicant for any violations of the gaming laws of the State of Illinois or any other State, or of any federal gaming laws.

3. Place where machine or device is to be displayed or operated and the business conducted at that place, and a floor plan showing the information described below.

4. Description of machine to be covered by the license, mechanical features, and name of manufacturer.

5. Whether said machine is owned by applicant, and if not, the name and address of the owner thereof.

e) Code Enforcement Inspection. All applications at the date of this Ordinance and all new applications shall be referred to the Director of Building and Community Services with a floor plan showing the following:

1) Square footage;
2) Exiting (door locations);
3) Seating arrangement;
4) Amusement device locations;
5) Aisle widths;
6) Emergency and exit lighting;
7) Bathroom locations;
8) Schematic of electrical system-inclusive of floor plan; and,
9) Fire extinguishers, alarms, fire suppression systems.

Any changes of the listed floor plan items shall be immediately reported to the Department of Building and Community Services. In the case of new applicants, submit to Department of Building and Community Services an application for a sign permit. If electrical or structural/wall work is to be completed, said work shall require compliance with all applicable codes, and acquisition of all required permits and permissions.

f) Police Department Check. The Police Department shall investigate the location wherein it is proposed to operate such amusement devices, and determine and verify the information given by the applicant. Yearly inspection of the premises to verify appropriate
number of licensed amusement devices will be the duty of the Police Department.

g) City Manager Grants. The application shall be referred to the City Manager who shall grant or deny the license pursuant to this Section 36.01 of the Municipal Code. Licenses shall be issued by the City Clerk. No permit shall be issued to any person who is a debtor on any obligation of any form owed to the City of DeKalb, nor to any premises that lacks proper zoning or is in violation of any City Code.

h) Display of License. The license or licenses herein provided for shall be posted prominently and conspicuously at the location of the amusement device(s) in the premises the device(s) is to be operated or to be maintained to be operated.

i) Gambling. It shall be unlawful for any person owning, possessing or operating any amusement device (whether any of the above are electronic or otherwise) to permit said device or any scheme whatever to dispense any form of pay-off, prize, reward, except free games dispensed by the device and nothing in this Section 36.01 shall in any way be construed to authorize, license or permit any gambling device whatsoever or any mechanism which has been judicially determined to be a gambling device, or in any way contrary to the laws of the State of Illinois.

j) Any facility that obtains an Amusement Device license shall be required to obtain and maintain a Fire Life-Safety license for their premises for all times that an Amusement Device license is in place.

36.02 Amusement Halls, Movie Theaters, Skating Rinks, Theaters, Bowling Alleys: Amusement Facility License Required.

a) It shall be unlawful to operate an amusement hall, dance club, bounce house, indoor-trampoline facility, indoor rock-climbing gym, movie theater, ice or roller-skating rink/alley/field, bowling alley (or bowling lanes), theater, or any other facility enclosed within a building which is used for athletic, amusement or recreational purposes with seating or occupancy limits in excess of 100 persons, without first obtaining an annual license to operate said facility. The license fee shall be $250 per license year or portion thereof. In addition to the Amusement Facility License, the premises shall be required to obtain and maintain a valid Fire Life-Safety License. Amusement Facility License terms shall be coterminous with Fire Life-Safety Licenses (i.e. May 1 – April 30). Amusement Facility Licenses shall be made available on an application form acceptable to the City Manager. No permit shall be issued to any person who is a debtor on any obligation of any form owed to the City of DeKalb, nor to any premises that lacks proper zoning or is in violation of any City Code.

b) Any facility with a license predating the passage of this Ordinance shall continue to operate under that license until April 30, 2014, but shall require a new Amusement Facility License and Fire Life-Safety License at that time.

36.03 Penalties.

A violation of any provision of this Ordinance shall be punishable by a fine of not less than Five
Hundred Dollars, plus Court Costs. In addition, violators of this section shall be liable for restitution costs to the City of DeKalb and any other public entity that utilizes public employees to respond to any event or licensed facility to provide police, fire or other similar services.

E. All other sections of Chapter 34 that predate this Ordinance shall be stricken in their entirety.

Section 3. All ordinances or portions thereof in conflict with this ordinance are hereby repealed. All agreements in violation of the terms of this Ordinance shall be terminated, effective immediately. The Mayor shall be authorized to approve minor amendments to this Ordinance within thirty days of the passage hereof, to accommodate reasonable requests of the School District.

Section 4. Should any provision of this Ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions will remain in full force and affect the same as if the invalid provision had not been a part of this Ordinance.

Section 5. This Ordinance shall be in full force and effect immediately after passage, based upon the statement of urgency included in the preamble above (incorporated by reference herein). Publication date: August 26, 2013. Effective date: August 27, 2013.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a regular meeting thereof held on the 26th day of August, 2013 and approved by me as Mayor on the same day. Passed on the Consent Agenda by roll call vote 6-0-2. Aye: Finucane, Snow, Naylor, Baker, O’Leary, Rey. Absent: Jacobson, Lash.

ATTEST:

LIZ PEERBOOM, City Clerk

JOHN REY, Mayor