

**AMENDING CHAPTER 5 “FIRE DEPARTMENT”, CHAPTER 16 “FIRE AND LIFE SAFETY”, CHAPTER 27 “GAS STATION LICENSES”, AND CHAPTER 55 “HOTELS AND MOTELS” OF THE MUNICIPAL CODE OF THE CITY OF DEKALB, ILLINOIS.**

**WHEREAS**, the City of DeKalb is a home-rule municipality with the power and authority conferred thereupon by virtue of the Illinois Constitution, Illinois Vehicle Code and Illinois Municipal Code; and

**WHEREAS**, the City presently maintains provisions of Chapters 5, 16, 27, 36, and 55 of the City Code relating to the inspections of certain properties and wishes to adopt revisions thereto; and

**WHEREAS**, the City Council has determined that it is necessary and appropriate to amend said regulations;

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

**SECTION 1. Chapter 5 Amended.**

The City Council of the City of DeKalb hereby adopts revisions to Chapter 5 of the City Code, relating to the Fire Department, by deleting the existing ordinance language of Section 5.16 “Fire Safety Registration and Commercial Building Inspection Program”, and substituting the following:

**a) Definitions:**

*Building:* Any structure, temporary or permanent, constructed upon real property within the City of DeKalb.

*Commercial Building:* Any Building, whether vacant or occupied, which is zoned or utilized for any commercial or industrial use or purpose, along with the parcel(s) of property on which it is located. A Commercial Building shall include any Mixed-Use Property as defined herein. A Commercial Building shall not include any Excluded Building. Any Commercial Building that is vacant shall be nonetheless considered to be a Commercial Building. For purposes of this Ordinance, buildings owned by the City of DeKalb shall be deemed to be Commercial Buildings.

*Commercial or Industrial Use:* Any zoning designation or use which is identified as or is consistent with a use enumerated as a commercial use or as an industrial use in the City’s Unified Development Ordinance.

*Excluded Building:* Any Commercial Building which is: 1) owner-occupied and exclusively residential in nature; 2) a Governmental Building; 3) a home-based business (business operated out of a portion of a private, owner-occupied, single-family residential structure) or, 4) residential rental property, multi-unit or otherwise,

that is required to be registered with the City pursuant to the requirements of Chapter 10 of the City Code of Ordinances, unless such property is a Mixed-Use Property as defined herein.

*Governmental Building:* Any parcel of real property, improved with a temporary or permanent structure, where either the real property or the structure is owned or leased by the State or Federal Government or a unit thereof, or by a unit of local government other than the City of DeKalb. Where a property includes multiple uses, such portion of the property or Building which qualifies as a Governmental Building shall be deemed Excluded, and the balance shall not be excluded.

*Mixed-Use Property:* Any Building which is zoned for or utilized in a fashion as to include a combination of uses which include residential uses (whether for rental or owner-occupied) in connection with either a Commercial or Industrial Use, regardless of whether such property is registered as a residential rental property.

*Owner:* The person or entity listed of record as being the Owner of a parcel of property, and also as identified on the property registration form filed with the City. The Owner shall be the person or entity upon whom legal process shall be served and shall be the person or entity who has the authority to exercise the legal rights of the Owner (such as approving compliance agreements).

*Pre-Plan Walkthrough:* A Walkthrough inspection completed at a Commercial Building and the property on which it is located, in compliance with Insurance Services Offices standards and requirements applicable to building emergency pre-planning, identifying ingress/egress points, utility connections, fire alarm or sprinkler panel/connection locations, bulk flammables storage areas and other similar information. A Pre-Plan Walkthrough shall cover all portions of the Building and property inspected.

*Public Area:* Any portion of a Building which members of the public, customers, or persons other than Owner's (or a given tenant's) employees and agents are permitted to enter.

- b) Registration of Commercial Buildings Required: The Owner of each Commercial Building is required to maintain a current registration with the City of DeKalb for said building. There shall be no fee for registration of a Commercial Building, and no process for suspension or revocation of registration.
1. Registration shall provide the name and contact information for the Commercial Building's Owner, and other related information.
    - (a) The Owner shall be required to designate a 24-hour emergency contact and keyholder who shall have authority to grant the City expedited, immediate access to the property during the course of an emergency response to the property.
    - (b) The Owner shall also be required to designate and provide contact information

for a local representative who shall have the authority to grant the City access to any portion of the building or property which is solely under the control of the Owner, for purposes of completing an inspection or walkthrough under this ordinance.

- (c) Owners are encouraged, but not required, to provide floor plans or other information showing the layout of all Buildings required to be registered under this ordinance. Owners are required to provide a floor plan identifying any Public Areas and identifying any portion of a Building which is vacant.
- (d) At the time of initial application for registration, each Building shall be assigned a twelve (12)-month annual registration period (with the City undertaking to include all Buildings under common ownership within the same registration period). Subsequently, each Owner shall renew the registration of each Building by filing an application for renewal at least ninety (90) days prior to the end of the then-current term of the assigned registration period. In the event of any change in ownership of a Building or in the identity of the emergency contact, the registration shall be updated within ten days of the date of the change (but shall not change the timeline for applicable Building Inspections or Walkthroughs). In the event that there is no change in building ownership or emergency contact, the annual renewal shall be a simplified verification of existing information.

## 2. Multi-Unit Buildings:

- (a) Buildings which are not multi-unit, or which are multi-unit, but which are either vacant or occupied by a single entity shall be subject to common inspection / walkthrough and shall be treated as a single unit for purposes of this ordinance. Multi-unit buildings where the occupancies are not separated by permanent, physical improvements (e.g. offices separated by cubicles) shall be treated as single units.
  - (b) Buildings which are multi-unit, with the units being fully separated by permanent, physical improvements shall be subject to inspection/walkthrough on a unit-by-unit basis, with the City attempting to complete all inspections/walkthroughs at the same time. The exterior portion of the inspection/walkthrough, and the inspection/walkthrough of any shared interior common areas shall be conducted at the same time as the unit-by-unit inspection/walkthrough. Any violations discovered within an individual unit that do not extend beyond the individual unit shall be handled on a unit-by-unit basis. Any violations discovered that present a threat to a portion of the occupancy extending beyond an individual unit (e.g. an inoperable, building-wide fire suppression system) shall be addressed to the affected portion of the building.
- c) Pre-Plan Walkthrough: The Fire Department shall endeavor to conduct Pre-Plan Walkthroughs updates of all Commercial Buildings once every three years.

1. Documentation: The Fire Department shall endeavor to prepare Pre-Plan documentation based upon the completion of the Pre-Plan Walkthrough, in a fashion compliant with applicable Insurance Services Office standards, and shall maintain such documentation in a format accessible to emergency responders. Building Owners are encouraged, but not required, to provide building plans, schematics and related documents, in electronic format if possible, to enable the efficient preparation of accurate Pre-Plans.
    - (a) The initial inspection report to be utilized is in the form attached hereto as Exhibit A or a computerized version of the same (which exhibit need not be codified). Updates or modifications to the inspection report shall require the approval of the City Council.
  2. Portion of Building Subject to Pre-Plan Walkthrough: The Commercial Building and the property on which it is located shall be subject to the conduct of a Pre-Plan Walkthrough, excluding any individual residential units in a Mixed-Use Building.
  3. Refusal to Permit Pre-Plan Walkthrough: The Fire Department shall attempt to conduct the Pre-Plan Walkthrough contemplated by this Ordinance. In the event that any Owner or Tenant refuses to permit the Pre-Plan Walkthrough of a Building or a portion thereof, the Fire Department shall conduct a Walkthrough in such portion as the Owner or Tenant permits access to. The City shall document the Owner's or Tenant's refusal in writing and shall provide a copy of such notice to the Owner within a reasonable time thereafter.
- d) Applicable Standards: No provision of this Ordinance shall have an impact upon the determination of the applicable building code or standards to which a Building or property is held. It is the intention of the City to recognize any applicable 'grandfathering' provisions of the City's Building and Fire Codes relating to Buildings. It is expressly recognized that not all buildings will comply with the most updated provisions of the City's building codes, and that under applicable laws, existing Buildings benefit from provisions in the codes that permit grandfathering of existing conditions.
1. The City acknowledges that with regard to Buildings which were constructed a significant time ago, or which were constructed and amended over a period of time, it may be challenging to identify the applicable building codes and standards for all or for portions of a Building. The City shall act in good faith and shall extend a reasonable opportunity to conference with the Owner regarding the identification of the appropriate standard, and shall work in good faith to identify standards that are: a) appropriate for the Building given its age; b) attainable given the nature of the structure; and, c) appropriate to preserve public safety and the safety of building occupants.
  2. In the event that there is a dispute regarding which code or standard is applicable that is not resolved through the conference identified in (f)(1), such dispute may be referred to the Building Code Board of Appeals consistent with the provisions of Chapter 24 of the City Code of Ordinances.

## **SECTION 2. Chapter 16 Amended.**

The City Council of the City of DeKalb hereby adopts revisions to Chapter 16 of the City Code, relating to Fire and Life Safety, by deleting the existing ordinance language and substituting the following:

### **Section 16.01 Establishments**

- a) The licensing and sanitary inspection of food service and food store establishments within the City of DeKalb shall be conducted by the DeKalb County Health Department, in accordance with rules and regulations prescribed by the DeKalb County Code.
- b) Fire-Life Safety license and inspection of food service and public accommodation establishments shall be conducted by the Fire Chief of the City of DeKalb, or designee, as provided in this Chapter.

### **Section 16.02 Definitions**

- a) For the purpose of this Chapter 16, whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this Section.

*Food Service Establishment:* Any public place kept, used, maintained, advertised, and held out to the public as a place where meals are actually and regularly served in accordance with a general menu, such space being provided with 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 guests. Food service establishments shall also include any public place where food prepared on site requires, or would require, installation of a type 1 or type 2 hood as prescribed by the International Mechanical code (IMC), including establishments with existing, non-conforming hoods where grease, smoke or products of combustion result from the cooking process.

*Public Accommodation Establishment:* Any public place kept, used, maintained, advertised, and held out to the public as a place where entertainment, and/or food and/or beverages are provided for consumption on the premises. Such establishments include, but are not limited to, banquet halls, night clubs, taverns or bars, teen clubs, pool halls, bowling centers, skating rinks and amusement centers.

*Public Establishment:* For purposes of this Chapter 16, when the term "public establishment" is used, it shall include Food Service Establishments and Public Accommodation Establishments as defined herein.

Section 16.03, Fire-Life Safety License and Inspection, shall be amended as follows:

### **16.03 FIRE-LIFE SAFETY LICENSE AND INSPECTION.**

- a) The bi-annual Fire-Life Safety inspections of public establishments shall be conducted



in accordance with this Chapter 16 of the City of DeKalb Municipal Code.

- b) It shall be unlawful for any person, firm or corporation to conduct, keep, manage, transfer ownership or operate a public establishment without an annual Fire - Life Safety license and bi-annual inspection. Therefore, no structure shall be constructed, erected, converted or altered to be used as a public establishment unless the structure and every part thereof shall conform to the Ordinances of the City of DeKalb and in particular to this Chapter 16 and the City of DeKalb's Unified Development Ordinance.
- c) Each property required to be licensed under this Chapter 16 shall be inspected biannually and shall be licensed annually. Each property required to be licensed under this Chapter 16 shall also be inspected prior to the time of final approval of a new license, and prior to approval of a change in ownership or registration.
- d) In the case of businesses (e.g. restaurants, grocery stores, food-fuel stations) that fry foods and/or require Ansul hood systems, such systems and/or fry stations shall be inspected on an annual basis.
- e) The Fire Chief or designee shall be authorized to assign licensees to their first year of biannual inspections for scheduling purposes, and to alter the inspection schedule or period at any time thereafter. The Fire Chief or Designee shall also be authorized to require annual inspections for properties with significant violations observed during the course of an inspection or during the investigation of a complaint.

### **SECTION 3. Chapter 27 Repealed.**

The City Council of the City of DeKalb hereby repeals Chapter 27 of the City Code in its entirety.

### **SECTION 4. Chapter 55 Amended.**

The City Council of the City of DeKalb hereby adopts revisions to Chapter 55 of the City Code, relating to Fire and Life Safety, as follows:

Section 55.08, Application for License/Inspections, subsections (d) and (e), shall be amended as follows:

#### **55.08 APPLICATION FOR LICENSE/INSPECTIONS.**

- d) Prior to issuance or ~~renewal~~ of a Hotel License, the owner or operator of a Hotel shall submit the property to a complete inspection of the Hotel and the premises on which it is located. **Prior to renewal of an existing Hotel License, the owner or operator of a Hotel shall submit the property to a biannual inspection (with the first year of such biannual inspections being in 2020).** Said inspection shall be completed by the City of DeKalb's agents or employees. The Hotel shall make all necessary arrangements to permit the inspection to be completed during normal working hours, 9am-5pm. Said inspection shall include all rooms of the Hotel, including rooms available for rent to the public, mechanical rooms, common rooms, or any other rooms whatsoever.

Notwithstanding the foregoing, a Hotel may designate one room for permanent occupancy by a manager or representative of the Hotel, which room shall be disclosed to the City and shall not be subject to inspection. Said inspection shall be for the purpose of verifying that the Hotel is in safe condition, in compliance with the requirements of this Ordinance, and in compliance with any other applicable standard, regulation, ordinance, rule, law or statute.

1. In the event that any inspection reveals any violation of any applicable standard, the violation shall be documented in writing to the Hotel. The Hotel shall be responsible for correcting the condition(s) within the timeline specified by the City. The City may either issue a citation to the Hotel for any violation or may enter into a compliance agreement whereby the Hotel agrees to correct the violation and/or pay a specified fine to the City in lieu of the issuance of a citation. **The Fire Chief or designee has the authority to require more frequent inspections if significant code violations are observed.**
2. Upon correction of any violation(s), a reinspection of the Hotel shall occur. The cost of reinspection shall be billed to the Hotel at the City's actual labor and equipment cost plus a five percent administrative fee. Reinspections shall recur until all violations are corrected.
3. If the City receives any complaint from any source, including a complaint generated by the City, of an alleged violation of this Code or any applicable legal standard, or in the event that the Hotel makes a Required Disclosure to the City as described in Section 55.09, the City shall conduct a reinspection of the affected portion(s) of the Hotel subject to the complaint. If the reinspection reveals that the complaint was unfounded, there shall be no charge for the reinspection. If the reinspection reveals a violation of any applicable law or standard, the Hotel shall be responsible for payment of reinspection fees as outlined in the preceding paragraph, plus any costs or fines imposed.
4. In the event that required inspections are not completed on the scheduled date(s) of inspection through no fault of the City, the Hotel shall be subject to reinspection charges on the date(s) of reinspection.
5. In the event that the City pursues legal or administrative action based upon any actual or alleged violation and the City prevails in such action, the City shall also be entitled to recover the costs incurred by the City in providing personnel to investigate, process, prosecute, or testify at any hearing relating to such legal action, which cost shall be calculated consistent with the calculation process for reinspection (cost plus 5%), and the Hotel shall be responsible for such costs.
6. **Each property required to be licensed under this Chapter 55 shall be inspected biannually and shall be licensed annually. Each property required to be licensed under this Chapter 55 shall also be inspected prior to the time of final approval of a new license, and prior to approval of a change in ownership or registration.**
7. **The Fire Chief or designee shall be authorized to assign licensees to their first year**

of biannual inspections for scheduling purposes, and to alter the inspection schedule or period at any time thereafter. The Fire Chief or Designee shall also be authorized to require annual inspections for properties with significant violations observed during the course of an inspection or during the investigation of a complaint.

- e) Hotel license applicants shall schedule **biannual** inspections with the City not less than sixty (60) days prior to the date on which their then-current Hotel license expires and shall provide written notification of the pending room inspection of all persons who are then-currently renting or who will be renting a room in the Hotel on the scheduled dates of inspection. The Hotel shall be responsible for obtaining authority or consent for inspection of every room in the Hotel on the scheduled date(s) of inspection, and the Hotel shall reasonably cooperate with the City in gaining access to every room, including but not limited to requiring tenants to change rooms to permit inspection of every room at the earliest possible time.

**SECTION 5.** All ordinances or portions thereof in conflict with this ordinance, including the prior versions of the ordinances included above, are hereby repealed.

**SECTION 6.** 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 7.** This Ordinance shall be in full force and effect after passage and publication pursuant to law.

**PASSED BY THE CITY COUNCIL** of the City of DeKalb, Illinois, at a Regular meeting thereof held on the 25<sup>th</sup> day of March 2019 and approved by me as Mayor on the same day. First Reading passed by an 8-0 roll call vote. Aye: Jacobson, Finucane, Stuepegia, Fagan, Noreiko, Verbic, Faivre, Smith. Nay: None. Second Reading waived by an 8-0 roll call vote. Aye: Jacobson, Finucane, Stuepegia, Fagan, Noreiko, Verbic, Faivre, Smith. Nay: None.

**ATTEST:**

  
**LYNN A. FAZEKAS, City Clerk**

  
**CITY OF DE KALB**  
**STATE OF ILLINOIS**

  
**JERRY SMITH, Mayor**