

Chapter 16

FIRE – LIFE SAFETY (05-31-13)

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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, food store and public accommodation establishments shall be conducted by the Fire Chief of the City of DeKalb, or designee, as provided in this Chapter.

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 (Restaurant): 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 Store Establishment (Grocery Store): Any public place kept, used, maintained, advertised, and held out to the public as a place where food products are sold to the public primarily for consumption on other premises. Such establishments may, or may not, also contain a Delicatessen on the same premises.

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, Food Store Establishments with a Delicatessen and Public Accommodation Establishments as defined herein.

16.03 FIRE-LIFE SAFETY LICENSE AND INSPECTION.

a) The 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 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.

16.04 LICENSE APPLICATIONS.

a) Written application for any license under this Chapter shall be made to the Fire Chief through the City Clerk's Office. Said application shall be filed upon forms approved by the Fire Chief and furnished by the City Clerk in accordance with this Chapter. Renewal Applications shall be filed with the City Clerk by January 31 of each year. In the event an application is denied, it shall be the responsibility of the Fire Chief, or designee, to provide documentation to the applicant outlining the reason(s) for denial. The decision to approve or deny an application shall be the responsibility of the Fire Chief or designee.

b) Accompanying each application shall be:

1. A plot plan showing the lot or tract of land of which the structure is a part, all structures (including accessory structures) thereon, location of existing or proposed fire lanes, location of refuse facilities and screening and any existing, as well as proposed, off-street parking spaces;

2. A floor plan of every story within the building(s) showing thereon:

(a) all means of ingress and egress including size and swing of any doors, and location of knock box or other emergency ingress access systems (if equipped);

(b) location and size of all windows and details on whether windows open and if so, their swing;

(c) location, size dimensions, and use of all rooms; including layout of tables and chairs, booths, bars, and service areas, and amusement devices.

(d) location of all existing or proposed smoke detectors, (hardwired with battery backup), and emergency exit lighting.

(e) all fire suppression equipment including but not limited to the location of all fire extinguishers, sprinklers, alarm panels, sprinkler control panels, fire department service connections, mounted/permanent fire

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suppression systems or hoods, and any other control panels or control valves for any of the foregoing. Any of the foregoing which are required to be recharged or tested on an annual basis (e.g. fire suppression hoods and fire extinguishers) must have a valid test tag as of the date of inspection, for the period for which a license is sought.

(f) total occupant load; and

(g) all other information required by the Fire Chief, or designee, pursuant to this Chapter 16. The Fire Chief shall be authorized to prepare, update and amend the application, or to require additional or supplemental information, on either the application or any renewal application, as he shall deem necessary to properly evaluate a premises for issuance or renewal of a license under this Chapter 16, from time to time.

The Fire Chief shall be authorized to prepare a separate form of renewal application which provides a mechanism for certifying that there have been no changes in the foregoing, and a mechanism for reporting any changes which have occurred. Said renewal form may be amended by the Fire Chief from time to time.

3. Payment of a non-refundable license fee as prescribed in Section 16.05 of this Chapter 16.

4. The property owner shall designate the person(s) responsible for all inspection-related correspondence, emergency contact, inspection coordination, and scheduling. The name, address and phone number of the designated responsible person shall be provided as required on the application. The property owner shall provide a phone number at which a live emergency contact person with authority to bind the owner may be reached twenty-four hours a day, three hundred and sixty five days a year.

The property owner shall notify the City Clerk of any change of said responsible person occurring during the term of the license period within fourteen (14) days of such change.

5. If the property is owned by a trust, the names, addresses and phone numbers of all beneficiaries shall be provided.

6. A statement that, if used for live entertainment, the establishment will make a public service announcement not more than ten minutes prior to the start of a program clearly identifying all means of egress available prior to commencing performance of live entertainment.

c) The applicant shall subscribe and swear to the truth of the information contained in the application and all accompanying documents.

16.05 DURATION OF LICENSES AND INSPECTION FEES.

a) Except as provided elsewhere herein, every Fire - Life Safety License granted under this Chapter 16 shall be issued for a period not to exceed one (1) year. All licenses shall expire on April 30, following the inspection period which began during the preceding February, or as otherwise determined by the City.

b) Fire - Life Safety Licenses shall not be assignable or transferable. All licenses hereunder shall be granted after approval by the Fire Chief, or designee.

c) The non-refundable license Annual Fee for a license issued under this Chapter 16 shall be assessed as per the table below. Said fee shall be paid to the City of DeKalb at the time of submitting an application for license.

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<u>Square Feet of Licensed Structure</u>	<u>Fee</u>
Under 35,000 Square Feet	\$100.00 per year
35,000 Square Feet or More	\$200.00 per year

d) The non-refundable license renewal fees shall be paid to the City of DeKalb by January 31 of each year.

e) In the event that a license fee has not been paid prior to a public establishment beginning operation, or renewal fees have not been paid in full prior to January 31, the license fees charged will be double the amount listed above.

f) The license fee indicated above shall cover the cost, in addition to other items, of the initial inspection and not more than one (1) follow-up inspection. Any inspection in addition to those mentioned above, shall require the payment of an additional fee for each additional inspection when caused either by:

1. failure of the applicant or licensee to appear at the time of a scheduled inspection; and/or,
2. failure of the applicant or licensee to correct the violation(s) noted within the specified compliance period.

3. Such additional fees shall be as follows:

Third (3rd) inspection – 100% of applicable Annual Fee
Fourth (4th) inspection – 200% of applicable Annual Fee
Fifth (5th) or subsequent inspection – 300% of applicable Annual Fee

4. Payment of any and all additional fees shall be made within ten (10) business days of the date of invoice or statement for the same. In the event that an additional fee is not paid within that time, it shall be double the amount invoiced or reflected on the statement.

5. Payment for any additional fee(s) shall be made to the City of DeKalb before any license shall be issued.

g) All fees due under this Chapter 16 shall be paid to the City of DeKalb.

16.06 INSPECTION AND VERIFICATION OF APPLICATION.

a) It shall be the duty of the Fire Chief, or designee, to inspect the application, the proposed or existing public establishment, and every part thereof, to determine the following:

1. The validity of the information provided by the applicant;
2. The compliance of the proposed public establishment with the ordinances of the City;
3. Whether or not the building's management, owner, or occupants conduct, maintain or allow to exist conditions or violations of any/all locally adopted building codes, this Municipal Code and the Unified Development Ordinance of the City; prohibits activities upon the proposed premises which are unlawful or which constitute or may constitute a public nuisance, a breach of the peace or which are a menace to the health, safety or general welfare of the public;

4. Whether or not the applicant, owner or licensee owes any debt to the City;
5. Whether or not there is any debt owed to the City of DeKalb relating to the property or any owner or manager thereof. No license shall be issued until any such debts discovered in the investigation are paid in full.
6. An occupancy limit for each room/area to which the public has access by either:
 - (a) calculations submitted by a registered architectural professional, and approved by the City of DeKalb Fire Prevention Officer; or,
 - (b) the calculations of the City of DeKalb Fire Prevention Officer based on current International Fire and Building Codes.
7. Compliance with any other applicable City ordinances or requirements. If determined to be necessary by the Fire Chief or his designee, additional inspections by other City personnel may be required as a condition precedent to issuance of a Fire Life Safety permit. Submission of a signed application for a Fire Life Safety License and/or acceptance of a Fire Life Safety License 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 Manager or other staff authorized by the City Manager, for purposes of determining compliance with the provisions of this Fire Life Safety Code, 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 Fire Life Safety Code for license holders, which may subject a licensee to suspension or revocation of their Fire Life Safety license, imposition of fines and penalties under this Code, or both.
 - b) All initial license renewal inspections shall be completed by March 31. All matters, which are not in compliance, must be remedied by April 30. Failure to remedy any or all violations observed as a result of inspection on or before April 30 shall constitute justifiable cause to enact license revocation proceedings as prescribed in Section 16.09 of this Chapter, or to justify non-renewal of an existing license, without requirement of any hearing.

16.07 REQUIREMENTS AND RESTRICTIONS.

- a) No Fire - Life Safety License shall be issued, and any license issued may be revoked, if any of the following has occurred or exists:
 1. Any material information furnished by the applicant has been falsely stated;
 2. The licensee does not comply with the provisions of this Chapter 16 and the Ordinances of the City;
 3. The management, owner(s), or occupants of a public establishment (based upon apparent culpability) conduct, maintain or allow to exist conditions or violations of locally-adopted building codes,

including this Municipal Code and the Unified Development Ordinance of the City; or where an inordinate history of public safety responses is documented, or have engaged in activities which are unlawful, or which constitute, or may constitute, a public nuisance, a breach of the peace or which are a menace to the health, general welfare or safety of the public. The definition of activities which are unlawful or which constitute or may constitute a public nuisance or breach of the peace are those activities which are in violation of the provisions as prescribed in Chapter 52 of the City of DeKalb Municipal Code, and/or State and Federal law.

4. The applicant, licensee or owner of the property is a defaulter of the City. For purposes of this section, "defaulter" shall mean:

(a) The applicant, licensee or owner of the property did not make a required payment under the Rehabilitation Loan Program, or any similar program on the date the payment was due; or,

(b) The applicant, licensee or owner of the property has an outstanding financial obligation to the City of DeKalb, including, but not limited to, past due water bills, past due special assessment payment, past due property tax payments, parking ticket violations, weed and nuisance abatement liens and/or fines, any other fines or penalties, any other past due loan payment, or other charge or amount owing to the City of DeKalb.

16.08 ISSUANCE OF LICENSE.

a) After determination by the Fire Chief, or designee, that a license should be issued, the City Clerk shall issue the same. Said license shall be posted in a conspicuous place in the building.

b) After determination that a license not be issued under this Chapter, the Fire Chief shall notify the applicant of such a determination in writing setting forth specifically the grounds for the denial.

c) Any person aggrieved by a decision regarding the denial of a license under this Chapter 16 shall have the right to request a hearing before the City Manager, or designee. Said request for hearing shall be made by filing a written statement setting forth the grounds for the requested hearing and the aggrieved party's interest, if any. Said request for hearing shall be filed within five (5) business days of the issuance of denial.

d) The City Manager, or designee, shall then conduct a due process hearing within ten (10) business days of such request, after giving necessary due process notification. The City Manager, or designee, shall either affirm or reverse the decision within five (5) business days of the hearing, setting forth the reasons therefore in writing.

16.09 REVOCATION.

a) The license issued under this Chapter 16 may be revoked by the City Manager, or designee, after due process notice and hearing, as provided for herein for cause as listed in Section 16.08. In the alternative, the City Manager may refer the revocation of any fire life safety license for hearing before an Administrative Hearing Officer of the City pursuant to Chapter 17 of the City Code.

b) Upon determination by the City Manager, or designee, that there exists probable cause for the revocation of a license under this Chapter 16, the licensee and other interested parties shall be given written notice that a due process hearing shall be held to determine if there is cause for the revocation of the license. Such notice shall be issued at least five (5) business days prior to such hearing and shall be mailed to the licensee's last known address, or delivered in person, and shall state the following:

1. Specific grounds for revocation;

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2. Date, time and place of hearing;
 3. The right of the licensee to participate or be represented.
 4. Possible penalties.
- c) Such hearing shall be public and all interested persons shall be afforded an opportunity to be heard.
- d) If the City Manager, or designee, shall determine that any of the provisions of Section 16.07 has occurred or exists, he may:
1. Fine the licensee in an amount not to exceed One Thousand Dollars (\$1,000.00) per violation.
 2. Order that identified repairs be made within a specified time period.
 3. Fine the licensee an additional amount not to exceed Five Hundred Dollars (\$500.00) per violation for non-compliance of any repair ordered by the City Manager, or designee, not completed within the time specified.
 4. Impose a probationary period upon the licensee not to exceed two (2) years. The City Manager, or designee, may impose certain conditions for the probationary period, which the licensee shall observe. Such conditions shall be consistent with the objectives of this Chapter 16 and the violations found to be committed by the licensee. Conditions may include, but are not limited to, restricting or prohibiting open parties on the licensed premises and restrictions, prohibitions, or revocations on the issuance of a liquor license for the premises.
 5. Require the licensee to perform community service hours.
 6. Modify the licensee's occupant load for the inspected premises.
 7. Impose scheduled and/or unscheduled property maintenance inspections for the premises to assure that the certificate is in compliance with locally-adopted property maintenance codes, and may impose an additional fine not to exceed Five Hundred Dollars (\$500.00) per violation for failure to remedy any violations cited during such inspections within five (5) business days of the violation, unless otherwise agreed to by the Fire Chief.
 8. Revoke the license.
 9. Impose one or any combination of penalties as prescribed in this section.
- In the event a hearing is conducted by an Administrative Hearing Officer under Chapter 17 of this City Code, the Hearing Officer may impose any of the foregoing remedies, or any other applicable remedy for violation of a City Ordinance.
- e) Failure to pay any fine ordered by the City Manager or designee, or by an Administrative Hearing Officer shall be grounds for the revocation of the license.
- f) The City Manager, or designee, may, at his discretion, continue the hearing from time to time.

g) The City Manager, or designee, shall issue a written decision within five (5) business days of the hearing. Should the City Manager, or designee, determine that cause exists for the revocation of the license, such license shall be revoked upon the issuance of the written decision.

16.10 APPEALS FROM DECISIONS.

a) Unless the charges against a person have been heard under the provisions of the Administrative Hearing procedure set forth in Chapter 17 of this Code, any person who was a party to the hearing and aggrieved by the decision of the City Manager, or designee, in regards to the issuance, denial or revocation of a Fire and Life Safety License under this Chapter 16 shall have the right to appeal to the City Council. Such appeal shall be made by filing a written notice of appeal setting forth the grounds for appeal. Said notice shall be filed with the City Clerk and the City Manager, or designee, within ten (10) business days after notice of the decision by the City Manager, or designee, has been rendered. The City Council shall then hold a hearing on such appeal at a special or regular Council meeting occurring at least seven (7) days but not more than twenty (20) days after the filing of the notice of appeal. The decision of the Council shall be rendered no later than the following regular Council meeting. For those matters heard under the provisions of the Administrative Hearing procedure set forth in Chapter 17 of this Code, appeal procedures as set forth in that Chapter will apply.

b) Unless the charges against a person have been heard under the provisions of the Administrative Hearing procedure set forth in Chapter 17 of this Code, the Mayor, upon finding that the interest of the public or parties other than the licensee would be better served, may issue a stay of a revocation issued by the City Manager, or designee, but shall report such stay of revocation to the City Council at its next regular Council meeting specifying therein the reason for issuing the stay at which time the stay will expire. The City Council may, in its discretion, continue the stay until a final decision is reached on the matter by the City Council. For those matters heard under the provisions of the Administrative Hearing procedure set forth in Chapter 17 of this Code, appeal procedures as set forth in that Chapter will apply.

16.11 INTERPRETATION.

a) In their interpretation and application, the provisions of this Chapter 16 shall be held to be the minimum requirements with respect to public service establishments as herein defined, adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where this Chapter 16 imposes a greater restriction upon the use of the building or premise for public establishment purposes than are imposed or required by the provisions of any other ordinances provision, the provisions of this Chapter shall control, but in any regard, the highest standard imposed shall be the standard applicable.

16.12 STANDARDS FOR ISSUANCE.

a) The standard for issuing Fire and Life Safety Licenses shall be those standards contained within this Chapter 16, and those additional standards which are prescribed elsewhere in City Ordinances, and any national or model building codes adopted by the City which apply to public establishment uses in the customary interpretation.