

Chapter 27

GAS STATION LICENSES

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Sections:

- 27.01 GAS STATION LICENSING.**
- 27.02 LICENSE APPLICATIONS.**
- 27.03 DURATION OF LICENSE AND FEES.**
- 27.04 INSPECTION AND VERIFICATION OF APPLICATION.**
- 27.05 REQUIREMENTS AND RESTRICTIONS.**
- 27.06 ISSUANCE OF GAS STATION LICENSE.**
- 27.07 REVOCATION.**
- 27.08 APPEALS FROM DECISIONS.**
- 27.09 INTERPRETATION.**
- 27.10 STANDARDS FOR ISSUANCE OF LICENSES.**

27.01 GAS STATION LICENSING.

a) Commencing June 1, 2000, all Self-Service, Full-Service, or combination thereof, gas station licensing shall be conducted in accordance with this Chapter 27 of the City of DeKalb Municipal Code. (00-70)

b) It shall be unlawful for any person, firm or corporation to conduct, keep, manage, transfer ownership or operate a Self-Service, Full-Service, or combination thereof, gas station without a gas station license. Therefore, no structure shall be constructed, erected, converted or altered to be used as a Self-Service, Full-Service, or combination thereof, gas station unless the structure and every part thereof shall conform to the State Fire Marshal’s Act for Gasoline Stations 1999 Title 41 Part 170.150 and Ordinances of the City of DeKalb and in particular to this Chapter 27, Chapter 28, and the City of DeKalb's Unified Development Ordinance.

27.02 LICENSE APPLICATIONS. (13-02)

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 furnished by the City Clerk in accordance with this Chapter. Renewal applications shall be filed with the City Clerk by May 1 of each year. In the event an application is denied, it shall be the responsibility of the Fire Chief, or his designee, to provide documentation to the applicant outlining the reason(s) for denial.

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;
 - (b) location and size of all windows;
 - (c) location, dimensions, and use of all rooms;
 - (d) location of all existing or proposed smoke detectors (hardwired);
 - (e) location and number of required portable fire extinguishers, which are to be serviced and tagged on an annual basis; and,
 - (f) all other information required by the Fire Chief, or his designee, pursuant to this Chapter 27.
3. Payment of a non-refundable license fee as prescribed in Section 27.03 of this Chapter 27.
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 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.
- c) The applicant shall subscribe and swear to the truth of the information contained in the application and all accompanying documents.

27.03 DURATION OF LICENSE AND FEES. (13-02)

- a) Except as provided herein, every Gas Station License granted under this Chapter 27 shall be issued for a period not to exceed one (1) year. All licenses shall expire on June 30, following the inspection period which began during the preceding May, or as otherwise determined by the City.
- b) Gas Station Licenses shall not be assignable or transferable. All licenses hereunder shall be granted after approval by the City Manager, or his designee.
- c) License fee. The non-refundable license fee for each license year, or any portion thereof, issued under this Chapter 27, shall be One Hundred Dollars (\$100.00). Said fee shall be submitted to the City of DeKalb with the application for a new or renewal license.
- d) All renewal applications with a fee of One Hundred Dollars (\$100.00) shall be submitted to the City of DeKalb by May 1 of each year.
- e) 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.

Such reinspection fees shall be as follows

- Third (3rd) inspection – Two Hundred Dollars (\$200.00)
- Fourth (4th) inspection – Three Hundred Dollars (\$300.00)
- Fifth (5th) or subsequent inspection – Four Hundred Dollars (\$400.00)

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

f) In the event that a license fee has not been paid prior to a Self and/or Full-Service gas station beginning operation, or a renewal fee has not been paid in full by May 1, the license fee payable will be double the amount listed above.

g) All fees due under this Chapter 27 shall be paid to the City of DeKalb.

27.04 INSPECTION AND VERIFICATION OF APPLICATION. (13-02)

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

1. The validity of the information provided by the applicant;
2. The compliance of the proposed gas station 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 is a defaulter of 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 to any person who is a debtor of the City of DeKalb.
6. 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 Gas Station license. Submission of a signed application for a Gas Station License and/or acceptance of a Gas Station 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 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 Code for license holders, which may subject a licensee to suspension or revocation of their license,

imposition of fines and penalties under this Code, or both.

b) All initial license renewal inspections shall be completed by May 31. All matters, which are not in compliance, must be remedied by June 30. Failure to remedy any or all violations observed as a result of inspection on or before June 30 shall constitute justifiable cause to deny renewal of a license or to enact license revocation proceedings as prescribed in Section 27.07 of this Chapter.

c) All applications for Gas Station Licenses under this Chapter 27, except for renewal of license, upon being processed by the Fire Chief, or his designee, and no later than fifteen (15) days (working days) after application is made, shall be submitted to the City Manager, or his designee, with a determination by the Fire Chief, or his designee, as to whether or not all requirements of this Chapter 27 have been met, and if not, the Fire Chief, or his designee, shall include in his submission those matters which are not in compliance.

d) All applications for renewal of license issued under this Chapter 27, after all fees have been received by the City of DeKalb, and after all inspections have been made, and after all matters are in compliance, shall be submitted to the City Manager, or his designee, with a determination by the Fire Chief, or his designee, as to whether or not all requirements of this Chapter are met, and if not, the Fire Chief, or his designee, shall include in his submission those matters which are not in compliance.

27.05 REQUIREMENTS AND RESTRICTIONS.

a) No Gas Station 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 27 and the Ordinances of the City;
3. The management, owner(s), or occupants of a gas station (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, or any other past due loan payment owing to the City of DeKalb.

27.06 ISSUANCE OF GAS STATION LICENSE.

a) After determination by the City Manager, or his 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 27 shall have the right to request a hearing before the City Manager, or his 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) days of the issuance of denial.

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

27.07 REVOCATION.

a) The license issued under this Chapter 27 may be revoked by the City Manager, or his designee, after due process notice and hearing including but not limited to the Administrative Hearing procedure set forth in Chapter 17 of this Code, as provided for herein for cause as listed in Section 27.06. (07-115)

b) Upon determination by the City Manager, or his designee, that there exists probable cause for the revocation of a license under this Chapter 27, 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 as listed in Section 27.06 for the revocation of the license. Such notice shall be issued at least five (5) 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;
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 his designee, shall determine that any of the provisions of 27.06 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 Two Hundred Fifty Dollars (\$250.00) per violation for non-compliance of any repair ordered by the City Manager, or his designee, not completed within the time specified.

4. Impose a probationary period upon the licensee not to exceed two years. The City Manager, or his 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 27 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 Two Hundred Fifty Dollars (\$250.00) per violation for failure to remedy any violations cited during such inspections within five business days of the violation, unless otherwise agreed to by the Fire Chief or his designee. (07-115)

8. Revoke the license.

9. Impose one or any combination of penalties as prescribed in this section.

e) Failure to pay any fine ordered by the City Manager, or his designee, shall be grounds for the revocation of the license.

f) The City Manager, or his designee, may, at his discretion, continue the hearing from time to time.

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

27.08 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 his designee, in regards to the issuance, denial or revocation of a Gas Station License under this Chapter 27 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 his designee, within ten (10) days after notice of the decision by the City Manager, or his 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. (07-115)

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 his 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. (07-115)

27.09 INTERPRETATION.

a) In their interpretation and application, the provisions of this Chapter 27 shall be held to be the minimum requirements with respect to gas stations as herein defined, adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where this Chapter 27 imposes a greater restriction upon the use of the building or premise for gas station 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.

27.10 STANDARDS FOR ISSUANCE OF LICENSES.

a) The standard for issuing Gas Station Licenses shall be those standards contained within the State Fire Marshal’s Act for Gasoline Stations 199 Title 41 Part 170.150 and within this Chapter 27, 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 gas station uses in the customary interpretation.