

**CHAPTER 32
BUSINESS REGULATIONS**

LATEST REVISION: September 24, 2018 (Ordinance 2018-050)

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32.01. DEFINITIONS.

1. *Pawnbroker:* Every owner, operator or employee engaged in the business of receiving property in pledge or as security for money or other things advanced to the pawner or pledger shall be deemed to be a pawnbroker. The conduct of any other business which is regulated by the state or federal government as a pawnbroker shall also be deemed to be a pawnbroker.
2. *Licensee:* The owner, operator, and all employees of a business licensed under this article.
3. *Junk/Scrap:* Manufactured articles or parts that have been discarded and are useful

only as material for reprocessing or recycling.

4. *Precious Metals*: Articles consisting primarily of the elements gold (chemical symbol Au), silver (chemical symbol Ag), platinum (chemical symbol Pt) or palladium (chemical symbol Pd), but not including articles merely plated with these metals or articles similar in color to these metals but not actually consisting of them.
5. *Individually Identifiable Articles*: Articles that are individually identifiable by an identification number, serial number, engraving, stamping, forging or other applied numbers, letters, characters or markings, or other unique features that serve to distinguish it from any other similar article and which could be used to establish ownership of the article.

32.02. ELECTRONIC REPORTING OF TRANSACTIONS.

The Police Department shall enter into a contract for service with a company designated by the Chief of Police (hereafter, “the Online Records Repository”), in order to enhance its investigative services to protect pawnbrokers and members of the general public. In the event of a change to its electronic reporting system, the city will notify all impacted licensees of the change within a reasonable time prior to such change.

Every pawnbroker shall operate and maintain a computer system with internet access and photographic or video capability sufficient for the electronic reporting requirements described in this article. Any failure or malfunction of such equipment on the part of the licensee shall not exempt the licensee from the recording/reporting requirements outlined in this Ordinance. The licensee shall immediately notify the police department of any such failure or malfunction and shall have such resolved as soon as practicable. Failure by the licensee to resolve any failure or malfunction of equipment within two business days of their failure or malfunction shall lead to license revocation proceedings hereunder.

Each licensee shall maintain an account with the then-current Online Records Repository for the purpose of reporting transactions as required herein.

32.03. RECORD OF TRANSACTIONS.

Throughout the term of the license, every pawnbroker shall report/upload to the then-current Online Records Repository the below listed information for each and every transaction conducted during each day they were open for business by the end of that business day. All information shall be recorded in the English language.

A transaction shall consist of all articles brought in to a pawnbroker for sale, barter, trade, pledge or pawn by an individual (pawner/seller) at the same time and date and includes the sale of non-junk/scrap articles by a pawnbroker to another person. Articles brought in to a pawnbroker by an individual (pawner/seller) for sale, barter, trade, pledge or pawn at different times on the same date by the same person shall be considered as separate transactions, regardless of how short the difference in time is between those transactions.

Separate transactions, either from the same person or different persons, shall not be combined and reported collectively. The licensee shall also comply with such rules and regulations as the Chief of Police shall establish regarding the reporting of information into the Online Records Repository from time to time, and the Police Department shall provide each licensee with a written notice of any revision to such policies. The licensee shall also comply with the policies and procedures of the Online Records Repository.

1. Non-junk/scrap articles other than coins and paper money.

A. Purchases/receipts by licensees.

I. All such articles sold, bartered, traded, pledged or pawned to a pawnbroker by an individual (pawner/seller) during a transaction shall be associated with the person (pawner/seller) who brought the article(s) in. The licensee shall record/report the following information for each such transaction:

a. The name, current address and date of birth of the pawner/seller.

b. A digital photographic or scanned image of a photo ID card of the pawner/seller, sufficiently clear to allow the information on the ID to be read. The photo ID must be a currently valid (not expired) card issued by a government entity of the United States and must include the pawner/seller’s first and last name, current address, date of birth, and physical descriptors.

c. The date and time of the transaction.

II. Descriptions/photographs of articles.

a. Individually identifiable articles:

i. Each individually identifiable non-junk/scrap article brought in to a pawnbroker by an individual (pawner/seller) for sale, barter, trade, pledge or pawn during a single transaction shall be itemized separately. Licensees shall not lump such articles together (e.g., “five gold monogrammed rings”), but must provide a complete and thorough description of each item to include the following:

a. Type of article

b. Brand name/make/manufacture (if applicable).

c. Model number where such information is listed anywhere on the item subject to the transaction.

d. Serial number where such information is listed anywhere on the item subject to the transaction.

- e. Color/finish.
 - f. Any other identifying marks, writing, engraving, etc.
 - ii. A digital photograph(s) shall be taken of each individually identifiable article, sufficiently detailed to allow reasonable identification of the article. The digital photograph(s) shall capture any identifying numbers inclusive of serial numbers and model numbers, marks, writing, engraving, etc., or any other distinguishing characteristics.
- b. Non-individually identifiable articles:
- i. Articles that cannot be distinguished from any other similar articles may be described in groups of similar types of articles, but only within the same transaction made by the same seller/pawner. Licensees shall provide reasonable descriptions of the number and types of items within each group to enable the Police Department to determine if they may have been stolen during a particular crime. Example: an individual pawner/seller brings in a video game controller, 5 video game discs, and numerous items of jewelry. The licensee would first of all have to individually itemize and photograph the video game controller as outlined in *“Individually identifiable articles”* above, as it would be a serially-numbered item. As for the remaining items, the licensee shall not list them as “Miscellaneous video games and jewelry.” Instead, the licensee shall describe them as follows: “5 video game discs to include the following titles...,” and “Miscellaneous jewelry to include 2 yellow gold necklaces, 1 silver necklace, 2 pairs of silver earrings, one women’s yellow gold ring, 1 women’s white gold diamond ring and two silver bracelets.”
 - ii. A digital photograph(s) shall be taken of each group of similar types of articles within each transaction made by the same seller/pawner. The articles may be photographed together as a group, but each individual article shall be visible in the photograph. For example, given the circumstances outlined in subparagraph “a” above, the 5 video game discs would be photographed together as a group side-by-side (not stacked on top of each other), and the jewelry items would be photographed together as a group with each item laid out so as to be individually viewable (not piled together in a heap).

B. Sales by licensees.

- I. In order to facilitate the return of stolen items to their rightful owners, individually identifiable non-junk/scrap articles sold by a pawnbroker to an individual shall be reported to Online Records Repository. Licensees shall individually itemize and

describe each individually identifiable article so sold.

- II. Each individually identifiable non-junk/scrap article sold by a pawnbroker shall be associated with the person to whom it was sold. The licensee shall record/report the following information for each such transaction:
 - a. The name and current address of the purchaser must be recorded/reported— a photographic image of a government-issued photo ID card is not necessary.
 - b. A digital photograph of non-junk/scrap articles sold by a pawnbroker to an individual is not required.
- III. Reporting the sale of non-individually identifiable articles by a licensee to the Online Records Repository is not required.

2. Junk/scrap articles.

A. Purchases by licensees.

- I. Junk/scrap articles that are not individually identifiable may be recorded/reported in bulk, but must specify the weight, type (e.g., steel, copper, aluminum, etc.) and form (e.g. sheet, cans, pipe, wire, etc.) of the bulk material.
- II. Each different type and form of junk/scrap bulk material brought in to a pawnbroker by an individual for sale during a transaction shall be associated with the person who brought the material in. Licensees shall record/report the following information for each such transaction:
 - a. The name, current address and date of birth of the pawner/seller.
 - b. A photographic or scanned image of a photo ID card of the seller, sufficiently clear to allow the information on the ID to be read. The photo ID must be a currently valid (not expired) card issued by a government entity of the United States and must include the pawner/seller’s first and last name, current address, date of birth, and physical descriptors.
 - c. If the seller is selling on behalf of a company or business, the name, address, and telephone number of such company or business shall also be recorded/reported.
 - d. If the junk/scrap is brought by motor vehicle to a licensee for sale, the make, model, color, and license plate number of that vehicle shall be recorded/reported.
 - e. The date and time of the transaction.

- f. A digital photograph or, if the licensee has a video system, video segment of each individual type & form of bulk material purchased by the licensee shall be linked to the record of that transaction.
 - g. In the case of any junk/scrap that includes identification information such as model number, serial number, vehicle identification number, year/make/model, ownership information or similar information, such information shall be documented by the licensee at the time of transaction and entered into the Online Records Repository.
 - h. In the case of any junk/scrap that is accompanied by a title or other documentation evidencing proof of ownership, a photograph or scan of such document shall be uploaded into the Online Records Repository, and a copy of such document shall be retained by the licensee.
- B. Sales by licensees.
- I. Licensees do not need to record/report any information pertaining to the sale of junk/scrap material that is not individually identifiable. Licensees shall record/report information pertaining to the sale of individually identifiable junk/scrap material. The licensee shall record/report the following information for each such transaction:
 - a. The name and current address of the purchaser must be recorded/reported— a photographic image of a government-issued photo ID card is not necessary.
 - b. A digital photograph of non-junk/scrap articles sold by a pawnbroker to an individual is not required.
3. Coins and paper money.
- A. Purchases/receipts by licensees.
- I. Coins or paper money brought in by an individual (pawner/seller) for sale, barter, trade, pledge or pawn during a single transaction do not need to be itemized individually, but rather may be recorded/reported in bulk, unless such items are brought in and given a value in excess of the face value of the coin or paper money (such as items brought in based upon their collectability or historic value). If such items are brought in and given value in excess of their face value, the items shall be photographed, and a log describing the items (and serial number, if indicated on the item) shall be made in the Online Records Repository.
 - II. Coins or paper money brought in to a pawnbroker by an individual (pawner/seller) for sale, barter, trade, pledge or pawn during a transaction shall

be associated with the person (pawner/seller) who brought the article in. The licensee shall record/report the following information for each such transaction:

- a. The name, current address and date of birth of the pawner/seller.
 - b. A digital photographic or scanned image of a photo ID card of the pawner/seller, sufficiently clear to allow the information on the ID to be read. The photo ID must be a currently valid (not expired) card issued by a government entity of the United States and must include the pawner/seller’s first and last name, current address, date of birth, and physical descriptors.
 - c. The date and time of the transaction.
 - d. The quantities and types of coins or paper money present. If coins are all of the same type, they shall be reported by either quantity or weight, and type (e.g., 5 Morgan silver dollars, 25 buffalo nickels, 5 lbs. of wheat pennies, etc.). If coins are from a collection, a description of the theme of the collection (e.g., Bicentennial coins, state quarters, etc.) along with the number of coins shall be provided. If coins represent an accumulation of disparate coins with no overall theme, a generic description of the type and quantity of coins shall be provided (e.g., approximately 200 U.S. coins of miscellaneous dates & denominations, approximately 100 foreign coins from various countries, etc.). Paper money shall be reported by quantity and type (e.g., 25 U.S. \$5 silver certificates, etc.). Coins or currency given greater value than the face value shall be documented as described above.
- III. As a photograph of coins or paper money conveys no more information than can be obtained from the written descriptions required by Paragraph 3 (A)(II)(d) of this section, no photographs of coins or paper money are required unless the coins or paper money are given more value than their face value.

B. Sales by licensees.

- I. Licensees do not need to record/report any information pertaining to the sale of coins or paper money to other individuals or businesses, unless such items are sold at a value in excess of their face value. If sold at a value greater than their face value, Licensees shall individually itemize and describe each individually identifiable article so sold.
- II. Each individually identifiable non-junk/scrap article sold by a pawnbroker shall be associated with the person to whom it was sold. The licensee shall record/report the following information for each such transaction:
 - a. The name and current address of the purchaser must be recorded/reported— a photographic image of a government-issued photo ID card is not necessary.

- b. A digital photograph of non-junk/scrap articles sold by a pawnbroker to an individual is not required.
4. In the event the electronic reporting system malfunctions or is otherwise not operational, the licensee shall, at all times during such malfunction or non-operation, be required to keep written records of any and all transactions made during the period of malfunction or non-operation, to include all information required by this section. These written records shall be reported/uploaded to the Online Records Repository as soon as practicable after the electronic reporting system is functional. No such written records shall be erased, mutilated or changed. Written records shall be open and available for review upon request by the city treasurer or any peace officer during regular business hours.

32.04. PAWNBROKERS: ISSUANCE OF SIGNED RECEIPT.

Every pawnbroker shall, at the time of making any advancement or loan, deliver to the person pawning or pledging any property a receipt signed by him containing an accurate account and description, in the English language, of all the goods, articles or other things pawned or pledged, the amount of money, value or thing loaned thereon, the time of pledging the same, the rate of interest to be paid on such loan and the name and residence of the person making the pawn or pledge.

32.05. PAWNBROKERS: EMPLOYMENT OF PERSONS UNDER EIGHTEEN.

No pawnbroker shall permit any person under the age of eighteen (18) years to take pledges in pawn for him.

32.06. LICENSE REQUIRED; COMPLIANCE WITH STATE LAW.

No person or company shall receive any article or thing by way of pledge or pawn, nor shall he loan or advance any sum of money on the security of any article or thing, unless he also happens to be separately licensed as a pawnbroker under this Chapter and complies with the specific requirements of this Chapter applicable to Pawnbrokers. All Pawnbrokers shall comply with applicable state and federal laws with regard to fees which may be charged, as well as with regulations which may otherwise be applicable.

32.07. WAITING PERIODS.

No articles received on deposit or pledge by any pawnbroker, shall be permitted to be redeemed or removed from the place of business of such pawnbroker for the space of forty-eight (48) hours after the delivery of the signed receipt required herein. No articles pawned or pledged shall be sold or disposed of by any pawnbroker within one (1) year from the time the pawner or pledger shall make default in the payment of interest on the money so advanced by the pawnbroker, unless by the written consent of the pawner or pledger.

No pawnbroker shall expose for sale, or sell, trade or barter, or melt, crush/compact, destroy, or otherwise dispose of, any non-scrap/junk article that is individually identifiable within twenty-one (21) days of the time of purchasing or receiving the same, nor until the same has been in or upon the premises where the same are offered, exposed, traded, bartered or sold, at least twenty-one (21) days, unless the article consists primarily of precious metal(s). Due to fluctuations in the prices of precious metals and security concerns emanating from the accumulation of large quantities of precious metals, there shall be no waiting period for such articles, even if they are individually identifiable (although they shall be photographed and documented in accordance with the requirements of this Chapter 32). There shall be no waiting period for scrap/junk, coins, paper money or other non-individually identifiable articles.

32.08. PROHIBITED TRANSACTIONS.

No pawnbroker, in the course of conducting his or her business, shall receive any articles for pawn, pledge, advancement of money, loan, resale, or personal use from:

1. Minors who are under eighteen (18) years of age.
2. Any person appearing to be intoxicated or under the influence of drugs or alcohol.
3. Any person known to the pawnbroker to have been convicted of Theft, Residential Burglary, Burglary, Home Invasion, Vehicular Invasion, Armed Robbery, Robbery or Electronic Fencing under the laws of the State of Illinois, or the equivalent laws of any other state. A peace officer may provide such criminal conviction information to a pawnbroker, and a pawnbroker may also access the Online Records Repository “No Buy” list prior to making a transaction to ensure that the prospective pawner/seller has not been convicted of any such crime. All pawnbrokers are required to check both the Online Records Repository “No Buy” list and the information provided by the City of DeKalb Police Department (if any) prior to completing any transaction with any person or business.
4. Any person bringing such articles to the premises in a shopping cart.
5. Any person presenting a serial numbered non-scrap/junk article from which the serial number has been removed or obliterated.
6. Any person in possession of a manhole lid or casting, catch basin grate or casting, electrical conduit in lengths longer than six inches, spools of copper, fire hydrants, fire hydrant caps or components, street lighting poles, guardrails or guardrail components, railroad tracks or railroad track components, aluminum bridge rails, or any item stamped, marked or cast with the name of any City, any unit of federal, state or local government, unless such items are brought by persons having valid identification indicating that they are employees of the unit of government at issue, and payment for such items is tendered via a check made out to the unit of government.

7. Any firearm (as defined under state law or City Code), knife or sword.

In the event that any of the above enumerated persons shall attempt to conduct a prohibited transaction, a representative of that business shall notify the police department of the incident while the person is still present in the business if safe to do so, or otherwise as soon as the person has left the business. In no event shall the licensee complete a prohibited transaction.

32.09. REPORT OF FALSE / FICTITIOUS / FORGED / ALTERED ID CARD.

In the event that a person seeking to sell or pawn any item presents to the owner/operator/employee of a pawn or resale shop what is reasonably believed to be a false/fictitious/forged/alterd ID card, a representative of that business shall notify the police department of the incident while the person is still present in the business if safe to do so, or otherwise as soon as the person has left the business.

32.10. REPORT OF LOST OR STOLEN ARTICLES TO POLICE.

Every pawnbroker who shall receive or be in possession of any goods, articles or things under circumstances which would lead a reasonable person to conclude that they have been lost or stolen, or which have been alleged or supposed to have been lost or stolen shall immediately notify the police department of such receipt and, forthwith on demand, exhibit the same to any member of the police department.

32.11. RETURN OF STOLEN PROPERTY.

When any person is found to be the owner of stolen property which has been pawned or purchased by a pawnbroker, such property shall be returned to the owner thereof or the City of DeKalb Police Department without the payment of the money advanced by the pawnbroker thereon or any costs or charges of any kind which the pawnbroker may have placed upon the same.

32.12. INSPECTION OF PREMISES BY CITY.

Submission of a signed application for a license and/or acceptance of a 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, 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 and to any items contained therein, and also to any other areas, onsite or offsite, where the pawnbroker maintains any items pawned. 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.

32.13. HOURS OF OPERATION.

No business licensed under this article shall purchase or accept any goods, articles or things whatsoever, from any person-outside of posted business hours.

32.14. SOLICITATION OF ARTICLES.

No person licensed under this article shall be permitted to solicit business of any nature upon any street or public highway in the City, or at any location other than their licensed premises.

32.15. LICENSE REQUIRED.

No person shall engage in, carry on or conduct the business of a pawnbroker unless he is licensed to do so. A pawnbroker’s license shall entitle the licensee to engage in the purchase, sale, trade or barter of non-junk/scrap secondhand articles in addition to the business of receiving property in pledge or as security for money or other things. Additionally, licensees are required to have any other required licensure applicable to their business under federal, state or local law. All licensees under this Code must also hold a valid Fire Life Safety License issued by the City and must pay the fees applicable to such licenses. The license required hereunder shall be provided at no additional cost (other than the fees applicable to background investigations).

32.16. APPLICATION.

Any person desiring a license as a pawnbroker shall make application in writing to the Finance Department on a form acceptable to the Chief of Police setting out in the application the full name and residence of the applicant, if an individual, and if a corporation, the name and residence of each of its officers. Such application shall also set out the location at which it is intended or desired to conduct such business, and such other information as the Chief of Police shall from time to time deem appropriate. Any false information provided on the application shall result in the denial or revocation of the license.

Applicants shall be required to complete all related requirements including a criminal history and background check (and shall pay all fees associated therewith).

32.17. LICENSE TO STATE LOCATION OF BUSINESS.

Every license granted to any pawnbroker under the provisions of this division shall designate the place in which the person receiving the license shall be authorized to carry on such business. Such business shall not be carried on or conducted in any other place than that designated by the license.

32.18. CHANGE OF LOCATION OR OWNERSHIP OF BUSINESS.

Licenses shall be non-transferrable, either by ownership or premises. At the time of transfer of any ownership interest in a licensee, or a relocation of a licensee, the then-current license (if any) shall be invalidated and surrendered to the City, and the new owner(s) and/or new premises shall require the issuance of a new license.

32.19. LICENSE TO BE PUBLICLY POSTED.

Every license granted under this article shall be conspicuously posted for public viewing so as to be seen by anyone entering the place of business of such pawnbroker, whether that place of business is a fixed storefront or temporary, non-fixed location.

32.20. ISSUANCE OF LICENSE: FEE.

The City Manager may grant licenses to such pawnbroker applicants as shall pass all requirements imposed herein, all requirements imposed under the application process established by the Chief of Police, and who also receive a positive recommendation from the Chief of Police, to engage in the business of a pawnbroker at the place designated in the application for and during the period of such license, upon payment by the applicant to the city of an annual license fee. The annual fee for such license shall be \$100 for each year or portion thereof, with licensure following the licensee’s Fire Life Safety license term.

Any person employed by or providing volunteer work for the licensee at the business for which the license is sought, at any time during the period of the license, shall also be required to pass a background check if that employee or volunteer engages in the collection, receipt, purchase or sale of secondhand or junk/scrap articles. Proof of such background check for each employee or volunteer shall be kept on the premises of businesses licensed under this article or kept on file at their corporate offices if applicable and be presented for review within a reasonable amount of time upon request by the Police Department.

The results of all background checks shall be provided to the Chief of Police, who shall determine if the applicant has a history of past criminal conduct or criminal associations that would make it not in the best interests of the citizens of DeKalb to issue a license to the applicant to engage in such business.

Any establishment where any party listed on the application, in any capacity, is delinquent, by more than 30 days, in the payment of any obligation to the City, including but not limited to the payment of outstanding permit fees, water bills, ordinance violation fines or penalties, or any other City fines, charges, debts or penalties, whatsoever. Any licensee that has a person or entity disclosed on its license application that is more than thirty days delinquent in the payment of any amounts due the City shall: 1) be ineligible to receive a new or renewed license; and, 2) shall be subject to revocation of a license and imposition of fines and penalties, as a violation of this Code. Any license revoked under this Section shall be

subject to a reinstatement fee of \$500, following the payment of all outstanding amounts due to the City.

32.21. REVOCATION OR SUSPENSION.

The licenses issued pursuant to this Chapter may be revoked by the City Manager for any of the following causes. Notice of revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint.

1. Any fraud, misrepresentation or false statement contained in the application for license.
2. Conviction of any fraud, misrepresentation or false statement made in connection with the pawning or sale of any item.
3. Any violation of this Chapter.
4. Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude.
5. Conducting the business licensed under this Chapter in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
6. Failure to pay any tax, duty or other sum or charge due to the City from the licensee or any person listed on the licensee's application, or any such person becoming a debtor of the City of DeKalb on any form of obligation.

In addition, in the event that the City Manager becomes aware that any Licensee under this Chapter has been charged with any offense that would either disqualify the applicant from receiving a license or justify revocation of a previously issued license, the City Manager may notify the Licensee, via mail, of the City's intent to conduct a hearing to revoke the license in question. Such notice shall be mailed not less than 3 business days before the date of the hearing; however, if the Licensee is provided with actual, personal notice, not less than 1 business day of notice is required. Said hearing may be conducted by the City Manager or designee, or by an Administrative Hearing Officer of the City, and shall be conducted as a hearing with a civil burden of proof and informal rules of evidence. In the event that the person conducting the hearing determines that, by a preponderance of the evidence, that it is more probably true than not that the licensee committed the offense in question, the City shall revoke the license.

Further, the City Manager or designee may suspend any license, for a period of not more than five business days, when the Manager determines that suspension is in the public interest or is reasonably necessary to protect the public health or safety, or when investigating an action or alleged violation of this Chapter or any other City ordinance or state or federal statute by a licensee.

32.22. PENALTY PROVISIONS.

Unless otherwise specifically recited in a given section of this article, the penalty for violation of this article shall be: 1) suspension or revocation of licensure; and, 2) a fine of not less than \$500 nor more than \$1,000 per violation, per occurrence, per day.

32.23 GARAGE SALES.

It shall be unlawful for any person, group of persons, or organization to sell or offer for sale any secondhand household goods, clothing or other articles of personal property at what is commonly called a rummage, yard or garage sale on more than three (3) occasions in a calendar year if such sales are conducted in any residential zoned (SFR-1, SFR-2, TFR, or MFR) district of the City. Each of the three (3) allowable occasions in a calendar year shall be limited to not more than three (3) consecutive days.

Any person, group of persons, or organization who knowingly violates this provision shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each offense and a separate offense shall be deemed committed on each day during, or on which a violation occurs or continues.

32.24 GOING OUT OF BUSINESS.

There is hereby adopted by reference the provisions of Illinois Revised Statutes, Chapter 121-1/2, Section 157.1-157.12 (815 ILCS 350). Three copies of such statute are on file and kept in the office of the City Clerk and available for public use, inspection and examination, and have been so on file for a period of thirty days prior to adoption of this ordinance incorporating such Statute.

Duration of Sale - License Fee. A fee of Twenty-five Dollars (\$25.00) shall be charged for a license period of sixty (60) days from the start of such sale, with an additional thirty (30) days granted, if necessary, at no charge.

32.25 SOCIAL CLUBS

1. 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.

2. 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.

3. License Application and Process:

- a. 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.
- b. 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.
- c. 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.
- d. 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.
- e. 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.

- f. 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.
 - g. 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.
4. 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.
- a. 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.

5. 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.
6. 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.
7. Additional Restrictions:
 - a. 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.
 - b. 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).
 - c. The hours of operation for a Social Club shall be fixed by the terms of licensure.
 - d. 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.
 - e. 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.

- f. 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.
- g. 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
- h. 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.
- i. 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.

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."