ORDINANCE 2019-054
TABLED: AUGUST 26, 2019

AMENDING CHAPTER 3 “CITY ADMINISTRATION”, SECTION 3.14 “CITY CLERK” OF THE MUNICIPAL CODE OF THE CITY OF DEKALB, ILLINOIS.

WHEREAS, the City of DeKalb (the “City”) is a home rule unit of local government that may exercise any power and perform any function pertaining to its government and affairs pursuant to Article VII, Section 6, of the Illinois Constitution of 1970; and

WHEREAS, the City Clerk currently possesses certain duties pursuant to Section 3.14 of the City’s Municipal Code including, but not limited to: keeping a full record of the City Council’s proceedings; maintaining custody and control of certain documents; keeping office hours open for the transaction of the City’s business during the same hours as other City administrative departments; affixing the City’s corporate seal to a variety of documents; and having any appointed Deputy Clerk properly discharge any duties to the same extent as if done by the City Clerk personally; and

WHEREAS, the City Council finds that the office of City Clerk consists of purely clerical and ministerial duties which have been performed in a timely, efficient, and effective manner for many years by the former Deputy City Clerk, who is an Executive Assistant in the City Manager's office, formerly appointed to serve as the Deputy City Clerk without additional compensation, merit and benefits; and

WHEREAS, the City Council finds that it is in the best interests of the City’s welfare, public health, and safety to amend Section 3.14 of the City’s Code in accordance with this ordinance; and

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF DEKALB, ILLINOIS:

SECTION 1: The Executive Assistant shall be responsible for ensuring that all the duties of the City Clerk as provided by in Section 3 of this Ordinance are executed faithfully in the absence of the City Clerk.

SECTION 2: Chapter 3 “City Administration”, Section 3.14 “City Clerk”, of the City's Municipal Code shall be amended to state in its entirety as follows:

a) Oath. The City Clerk and Executive Assistant shall, before entering upon the duties of the office, take and subscribe the oath required by law for city officers, and execute a bond with surety to be approved by the Council, payable to the City in the penal sum of $5,000 conditioned for the faithful performance of the duties of the office and the payment of all monies received according to law and the ordinances of the City.

b) Duties. The duties of the City Clerk shall include, but are not limited to: taking and preparing minutes of the City Council's proceedings; faithfully recording the results of minutes, resolutions, and ordinances approved by the City Council; overseeing the review, approval and release of all Executive Session Minutes; keeping office hours open for the transaction of
the City's business during the City's regular business hours; affixing the City's corporate seal to a variety of documents; keeping one of the City's corporate seals; receiving and tracking legal notices sent to the City; administering oaths; overseeing the election process every two years; notifying all persons elected to offices of the election within five (5) days after the result of the election is declared; and allowing the Executive Assistant to perform said duties to the same extent as if done by the City Clerk personally.

c) Duties of the Executive Assistant. The duties of the Executive Assistant shall include, but are not limited to: attesting the Mayor's signature on resolutions, ordinances, agreements and other documents approved by the City Council; certifying copies of City ordinances and resolutions; codifying the City's Municipal Code; affixing the City's corporate seal to a variety of documents; keeping a City corporate seal; processing and finalizing new and renewal licenses; monitoring Open Meetings Act (OMA) training for City Council, City staff and all members of the City's boards, commissions and committees as OMA Officer; annually preparing the Economic Benefit Statement for submission to the County Clerk's office, notifying all persons appointed to offices within five days after the appointment is made; maintaining and overseeing official originals and copies of all the City's ordinances, resolutions, agreements, agenda packets and a variety of other miscellaneous documents; overseeing bidding processes as needed; preparing the annual Schedule of Meetings; attesting and notarizing signatures for the Mayor and City Manager; and performing all duties listed under "b) City Clerk Duties" to the same extent as if done by the City Clerk personally in the City Clerk's absence.

The Executive Assistant shall at all times be responsible to ensure that all the duties of the City Clerk are executed faithfully in the City Clerk's absence.

d) Seal. The City Clerk and the Executive Assistant shall at all times each keep at least one of the City's corporate seals. The City Clerk shall at all times allow the Executive Assistant access to the City's corporate seals.

e) Documents to Successor. The City Clerk shall, upon the termination, in any manner, of the term of office, deliver to the duly appointed or elected and qualified successor, all books, documents, records, papers, moneys or other property of the City in the Clerk's custody.

f) Office Hours. The City Clerk shall keep the office in the Municipal Building open for the transaction of business of the City, except upon Saturdays, Sundays or legal holidays, during the same hours as other City administrative departments.

g) Deputy City Clerk. The City Manager shall determine the staffing of the City Clerk's office. The City Manager may designate one or more full time
City employees to serve as Deputy City Clerk. From the City personnel and staff who are authorized by the City Manager to work with the City Clerk, the City Clerk may appoint one or more Deputy Clerks from time to time who shall be responsible for the proper discharge of Clerk's duties to the same extent as if done by the City Clerk personally. All City personnel who are authorized to work with the City Clerk shall remain Chapter 3 employees of the City under the supervision of the City Manager. Any person appointed as a Deputy City Clerk may fulfill any role of the Clerk. The Deputy City Clerk may be removed from the position of appointed Deputy City Clerk by the City Clerk. The Deputy City Clerk shall be eligible only for the same pay, merit, and benefits as they would be entitled to in the absence of appointment as Deputy City Clerk.

h) Salary. The City Clerk shall receive such salary and compensation as shall from time to time be fixed by ordinance. The City Clerk shall not be entitled to any benefits or additional compensation; however, if the City Clerk is also a Chapter 3 employee of the City, said person shall be eligible only for the same pay, merit, and benefits as said person would be entitled to in the absence of said person's appointment as the City Clerk.

SECTION 3: This ordinance and each of its terms shall be the effective legislative act of a home rule municipality without regard to whether such ordinance should (a) contain terms contrary to the provisions of current or subsequent non-preemptive state law, or (b) legislate in a manner or regarding a matter not delegated to municipalities by state law. It is the intent of the corporate authorities of the City of DeKalb that to the extent that the terms of this resolution should be inconsistent with any non-preemptive state law, that this resolution shall supersede state law in that regard within its jurisdiction.

SECTION 4: This ordinance shall be in full force and effect from and after its passage and approval as provided by law.


ORDINANCE 2019-054

AMENDING CHAPTER 3 "CITY ADMINISTRATION", SECTION 3.14 "CITY CLERK" OF THE MUNICIPAL CODE OF THE CITY OF DEKALB, ILLINOIS.

WHEREAS, the City of DeKalb (the "City") is a home rule unit of local government that may exercise any power and perform any function pertaining to its government and affairs pursuant to Article VII, Section 6, of the Illinois Constitution of 1970; and

WHEREAS, the City Clerk currently possesses certain duties pursuant to Section 3.14 of the City's Municipal Code including, but not limited to: keeping a full record of the City Council's proceedings; maintaining custody and control of certain documents; keeping office hours open for the transaction of the City's business during the same hours as other City administrative departments; affixing the City's corporate seal to a variety of documents; and having any appointed Deputy Clerk(s) properly discharge any duties to the same extent as if done by the City Clerk personally; and

WHEREAS, the City Council finds that City Clerk Lynn Fazekas has not diligently performed her duties as City Clerk including, but not limited to: her failure to keep office hours open for the transaction of the City's business during the same hours as other City administrative departments; her failure to expeditiously affix the City's corporate seal to all papers requiring the City's corporate seal; and her failure to allow Deputy City Clerks access to use the City's corporate seal during the periods of time in which she has failed to keep office hours open for the transaction of the City's business; and

WHEREAS, the City Council finds that City Clerk Lynn Fazekas's behavior and conduct while in the performance of her duties as City Clerk has been unprofessional, uncivil, and an actual impairment to the timely, effective, and efficient performance of the City's business; and

WHEREAS, the City Council finds that City employees do not want to perform the duties of Deputy City Clerk under City Clerk Lynn Fazekas; and

WHEREAS, the City Council finds that the elected office of City Clerk has experienced tremendous instability since February 2012; and

WHEREAS, the City Council finds that the office of City Clerk consists of purely clerical and ministerial duties which have been and will be more performed in a timely, efficiently, and effectively performed by an appointed officer in manner for many years by the Deputy City Clerk, who is an Executive Assistant in the City Manager's office, appointed to serve as the Deputy City Clerk without additional compensation, merit and benefits; and

WHEREAS, the City Council finds that the duties of the City Clerk have been largely, effectively, and efficiently performed for a number of years by the Deputy City Clerk, who
is an executive assistant in the City Manager’s office appointed to serve as the Deputy City Clerk without additional compensation, merit, and benefits; and

WHEREAS, the City Council finds that it is in the best interests of the City’s welfare, public health, and safety to amend Section 3.14 of the City’s Code in accordance with this ordinance; and

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF DEKALB, ILLINOIS:

SECTION 1: The duty of City Clerk Lynn Fazekas shall be keeping office hours during the same hours as other City administrative departments until either her resignation, removal, or expiration of current term of office, whichever may come first. The Deputy City Clerk shall be responsible for ensuring that all the duties of the City Clerk as provided by in Section 3 of this Ordinance are executed faithfully in the absence of the City Clerk.

SECTION 2: The Deputy City Clerk and City Manager shall be further responsible for ensuring that all the duties of the City Clerk as provided by Section 3 of this Ordinance are executed faithfully.

SECTION 23: Chapter 3 “City Administration”, Section 3.14 “City Clerk”, of the City’s Municipal Code shall be amended to state in its entirety as follows:

a) Appointed Officer. The City Clerk shall be appointed by the Mayor with the approval of the City Council. The City Manager shall provide advice and recommendations to the Mayor regarding the appointment of the City Clerk. The residency requirements shall not apply to the City Clerk as an appointed officer. The City Clerk may be removed as an appointed officer pursuant to 65 ILCS 5/3.1-35-10.

ab) Oath. The City Clerk and Deputy City Clerk shall, before entering upon the duties of the office, take and subscribe the oath required by law for city officers, and execute a bond with surety to be approved by the Council, payable to the City in the penal sum of $54,000 conditioned for the faithful performance of the duties of the office and the payment of all monies received by the Clerk according to law and the ordinances of the City.

bc) Duties. The duties of the City Clerk shall include, but are not limited to: taking and preparing minutes of the City Council’s proceedings; faithfully recording the results of minutes, resolutions, and ordinances approved by the City Council; keeping office hours open for the transaction of the City’s business during the City’s regular business hours; affixing the City’s corporate seal to a variety of documents; keeping the City’s corporate seal; monitoring Open Meetings Act training; posting meeting agendas and approved minutes to the City’s website; preparing the Economic Benefit Statement for the County Clerk’s office; codifying the City’s Municipal Code;
maintaining copies of public official bonds; receiving and tracking legal notices sent to the City; maintaining official copies of ordinances, resolutions, and agreements in the City's central records; attesting and notarizing signatures for the Mayor and City Manager; recording documents with the County Clerk's office as needed; administering oaths; recording secretary for the Joint Review Board; recording secretary for the Economic Development Commission; recording secretary for the Finance Advisory Committee; certifying copies of City ordinances and resolutions; overseeing the election process every two years; notifying all persons elected or appointed to offices of the election or appointment within five (5) days after the result of the election is declared or the appointment is made; and, allowing the Deputy City Clerk to perform said duties to the same extent as if done by the City Clerk personally.

c) Duties of the Executive Assistant/Deputy City Clerk. The duties of the Executive Assistant/Deputy City Clerk shall include, but are not limited to: attesting the Mayor's signature on resolutions, ordinances, agreements and other documents approved by the City Council, overseeing the review, approval and release of all Executive Session Minutes; codifying the City's Municipal Code; affixing the City's corporate seal to a variety of documents; keeping a City corporate seal; processing and finalizing new and renewal licenses for Intoxicating Liquor, Body Art/Tattoo Establishment, Hotel/Motel, Pawnbroker, Taxi/Livery, Retail Tobacco/Retail Tobacco, Towing/Relocator, Amusement Device, Amusement Facility, Fire Life Safety, Going Out of Business, Iterant Merchant/Peddler/Solicitor, and Rooming House; monitoring Open Meetings Act (OMA) training for City Council, City staff and all members of the City's boards, commissions and committees as OMA Officer; posting meeting agendas and approved minutes to the City's website; annually preparing the Economic Benefit Statement for submission to the County Clerk's office, notifying all persons appointed to offices within five days after the appointment is made; maintaining and overseeing official originals and copies of all the City's ordinances, resolutions, agreements, agenda packets and a variety of other miscellaneous documents; maintaining copies of public official bonds; overseeing bidding processes as needed; preparing the annual Schedule of Meetings; attesting and notarizing signatures for the Mayor and City Manager; recording secretary for the Economic Development Commission; recording secretary for the Joint Review Board; recording secretary for the Finance Advisory Committee; certifying copies of the City's ordinances; and performing all duties listed under "b) City Clerk Duties" to the same extent as if done by the City Clerk personally in the City Clerk's absence.

The Deputy City Clerk and the City Manager shall at all times be responsible to ensure that all the duties of the City Clerk are executed faithfully in the City Clerk's absence.
dd) Seal. It shall be the duty of the The City Clerk and the Deputy City Clerk shall at all times each keep at least one of the City's corporate seals. The City Clerk shall at all times allow the Deputy City Clerk access to the City's corporate seals and the City Manager to keep the corporate seals of the City and affix the same to all papers requiring the corporate seal. The Clerk, the Deputy Clerk, and the City Manager shall at all times each keep at least one of the City's corporate seals. The City Clerk shall at all times allow the Deputy Clerk and the City Manager access to the City's corporate seals.

ee) Documents to Successor. The City Clerk shall, upon the termination, in any manner, of the term of office, deliver to the duly appointed or elected and qualified successor, all books, documents, records, papers, moneys or other property of the City in the Clerk's custody.

ff) Office Hours. The City Clerk shall keep the office in the Municipal Building open for the transaction of business of the City, except upon Saturdays, Sundays or legal holidays, during the same hours as other City administrative departments.

gg) Deputy City Clerks. The City Manager shall determine the staffing of the City Clerk's office. The City Manager may designate one or more full or part-time City employees to serve as Deputy City Clerk, whose duties may include working in the City Clerk's office. From the City personnel and staff who are authorized by the City Manager to work in the City Clerk's office, the City Clerk may appoint one or more Deputy Clerks from time to time who shall be responsible for the proper discharge of the Clerk's duties to the same extent as if done by the City Clerk personally. All City personnel who are authorized to work in the City Clerk's office shall remain Chapter 3 employees of the City under the supervision of the City Manager. Any person appointed as a Deputy City Clerk may fulfill any role of the Clerk. The Deputy City Clerks may be removed from the position of appointed Deputy City Clerk by the City Clerk or the City Manager. The Deputy City Clerks shall be eligible only for the same pay, merit, and benefits as they would be entitled to in the absence of appointment as Deputy City Clerk.

h) Salary. The City Clerk shall receive such salary and compensation as shall from time to time be fixed by ordinance. The City Clerk shall not be entitled to any benefits or additional compensation; however, if the City Clerk is also a Chapter 3 employee of the City, said person shall be eligible only for the same pay, merit, and benefits as said person would be entitled to in the absence of said person's appointment as the City Clerk.

SECTION 34: This ordinance and each of its terms shall be the effective legislative act of a home rule municipality without regard to whether such ordinance should (a) contain terms contrary to the provisions of current or subsequent non-preemptive state law, or (b) legislate in a manner or regarding a matter not delegated to municipalities by state law.
It is the intent of the corporate authorities of the City of DeKalb that to the extent that the terms of this resolution should be inconsistent with any non-preemptive state law, that this resolution shall supersede state law in that regard within its jurisdiction.

SECTION 45: This ordinance shall be in full force and effect from and after its passage and approval as provided by law.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois, at a Regular meeting thereof held on the ____ day of ____, 2019, and approved by me as Mayor on the same day. First Reading passed on August 12, 2019 by a 5-3 roll call vote. Aye: Smith, Fagan, Verbic, Faivre, Mayor Smith. Nay: Morris, Finucane, McAdams. Tabled August 26, 2019 by an 8-0 roll call vote. Aye: Morris, Finucane, Smith, Fagan, McAdams, Verbic, Faivre, Mayor Smith. Nay: None.

ATTEST:

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JERRY SMITH, Mayor