

**AMENDING CHAPTER 8 "CITY OFFICIALS AND EMPLOYEES ETHICS ACT"  
OF THE MUNICIPAL CODE OF THE CITY OF DEKALB, ILLINOIS AS IT  
PERTAINS TO THE WORKPLACE TRANSPARENCY ACT.**

**WHEREAS**, the City of DeKalb (the "City") is a home rule unit of local government which 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 Illinois Workplace Transparency Act, Public Act 101-0221, requires units of local government to provide annual sexual harassment prevention training for all public employees and a mechanism for reporting and independent review of allegations of sexual harassment made against an elected official of the governmental unit by another elected official of the governmental unit; and

**WHEREAS**, the City previously adopted an ethics ordinance under Chapter 8 "City Officials and Employees Ethics Act" of the City's Municipal Code (the "Code") and a policy prohibiting sexual harassment; and

**WHEREAS**, the City's Corporate Authorities find that it is in the best interests of the City's welfare, public health, and safety to amend the Code to comply with the Workplace Transparency Act; and

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

**SECTION 1:** The recitals to this Ordinance are true, material, adopted, and incorporated herein as Section 1 to this Ordinance.

**SECTION 2:** The City's Corporate Authorities adopt and approve an amendment to Chapter 8 "City Officials and Employees Ethics Act" of the Code to state in its entirety as set forth in Exhibit A attached hereto and incorporated herein to this Ordinance.

**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 ordinance should be inconsistent with any non-preemptive state law, that this ordinance shall supersede state law in that regard within its jurisdiction.

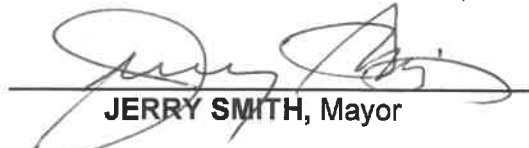
**SECTION 4:** That the City Clerk and/or the Executive Assistant be authorized to attest the Mayor's signature and that this ordinance shall be in full force and effect from and after its passage and approval as provided by law.

**ADOPTED BY THE CITY COUNCIL** of the City of DeKalb, Illinois, at a Regular meeting thereof held on the 24<sup>th</sup> day of August 2020 and approved by me as Mayor on the same day. Postponed on August 10, 2020 by an 8-0 roll call vote. Aye: Morris, Finucane, Smith, Perkins, McAdams, Verbic, Faivre, Mayor Smith. Nay: None. Passed on First Reading on August 24, 2020 by an 8-0 roll call vote. Aye: Morris, Finucane, Smith, Perkins, McAdams, Verbic, Faivre, Mayor Smith. Nay: None. Second Reading waived by an 8-0 roll call vote. Aye: Morris, Finucane, Smith,

Perkins, McAdams, Verbic, Faivre, Mayor Smith. Nay: None.

**ATTEST:**

  
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**RUTH A. SCOTT, Executive Assistant**

  
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**JERRY SMITH, Mayor**



## Chapter 8

### CITY OFFICIALS AND EMPLOYEES ETHICS ACT (04-44)

Current as of 5-20-04

#### Sections:

- 8.01 ADOPTION.
- 8.02 DEFINITIONS.
- 8.03 GIFT BAN.
- 8.04 PROHIBITED POLITICAL ACTIVITIES.
- 8.05 ETHICS ADVISOR.
- 8.06 PENALTIES.
- 8.07 AMENDMENTS.
- 8.08 SEVERABILITY.

#### 8.01 ADOPTION.

a) The regulations of Sections 5-15 (5 ILCS 430/5-15) and Article 10 (5 ILCS 430/10-10 through 10-40) of the State Officials and Employees Ethics Act, 5 ILCS 430/1-1 et seq., (hereinafter referred to as the "Act" in this Chapter) and Article 2 (775 ILCS 5/2, et seq. "Employment") and Article 6 (775 ILCS 5/6, et seq. "Additional Civil Rights Violations") of the Illinois Human Rights Act, 775 ILCS 5/1-101, et seq., are hereby adopted by reference and made applicable to the officers and employees of the City of DeKalb ~~to the extent required by 5 ILCS 430/70-5.~~

#### 8.02 DEFINITIONS.

a) For purposes of this Chapter, the terms "officer" and "employee" shall be defined as set forth in 5 ILCS 430/70-5(c) for any alleged violation under the Act as adopted and incorporated herein.

b) For purposes of this Chapter, the terms "officer" or "public officer", "employee" or "public employee", "unlawful discrimination", "harassment" and "sexual harassment" shall be defined as set forth in Article 2 of the Illinois Human Rights Act (775 ILCS 5/2, et seq. "Employment") for any alleged violation of the Illinois Human Rights Act as adopted and incorporated herein

#### 8.03 GIFT BAN.

a) The solicitation or acceptance of gifts prohibited to be solicited or accepted under the Act; by any officer or any employee of the City of DeKalb; is hereby prohibited.

b) The offering or making of gifts prohibited to be offered or made to an officer or employee of the City of DeKalb under the Act; is hereby prohibited.

#### 8.04 PROHIBITED ~~POLITICAL~~ ACTIVITIES.

a) The participation in political activities prohibited under the Act, by any officer or employee of the City of DeKalb, is ~~hereby~~ prohibited.

b) The unlawful discrimination, harassment, retaliation, aiding and abetting, coercion, and interference prohibited under the Illinois Human Rights Act, as adopted and incorporated herein, by any officer or employee of the City of DeKalb is prohibited.

c) The failure to complete an annual ethics and sexual harassment prevention training, as directed by the Ethics Advisor, by any officer or employee of the City of DeKalb is prohibited.

d) The intentional failure to report an actual or perceived violation of this Chapter to the Ethics Advisor by any officer or employee of the City of DeKalb is prohibited, unless said officer or employee reports said violation in the manner which may otherwise be allowed in accordance with the City's Employee Handbook, collective bargaining agreements, rules and regulations.

e) The intentional making of a false report of an alleged violation of this Chapter by any person is prohibited.

#### 8.05 ETHICS ADVISOR.

a) The City Manager shall serve as the "ethics advisor" of the City of DeKalb. In the event the City Manager cannot reasonably serve as the Ethics Advisor due to a conflict of interest, the City Attorney may serve as the Ethics Advisor.

b) The Ethics Advisor shall provide guidance to the officers and employees of the City of DeKalb concerning the interpretation of and compliance with the provisions of this Chapter and State ethics, discrimination and harassment laws. The Ethics Advisor shall perform such other duties as may be delegated by the City Council.

c) Except as may otherwise be provided by the City's Employee Handbook, collective bargaining agreements, rules and regulations, the Ethics Advisor shall receive, investigate, conciliate, settle, charge or dismiss all reports of an alleged violation of this Chapter. The Ethics Advisor may refer an alleged violation of this Chapter to the City Attorney for administrative prosecution pursuant to the procedures established by Chapter 17 of this Code. To the extent allowed by law, the Ethics Advisor shall keep confidential all reports of an alleged violation of this Chapter and the persons identified in said reports.

d) The Ethics Advisor, the Mayor, the City Attorney or the City's Human

Resources Department may receive all reports of allegations of sexual harassment made against an elected official of the City of DeKalb by another elected official of the City of DeKalb. All such reports shall be referred to the City Attorney to retain a qualified individual or entity to perform an independent review of said allegations. The City Attorney shall report the final outcome of said independent review to the City's Corporate Authorities. To the extent allowed by law, the independent review, all reports of allegations of sexual harassment and the persons identified in said review and reports shall be kept confidential.

#### 8.06 PENALTIES.

a) The penalties for violations of this Chapter shall be the same as those penalties set forth in 5 ILCS 430/50-5 for similar violations of the Act, or a fine in an amount not to exceed \$5,000.

b) The penalties provided herein shall not be the exclusive remedy for violations of this Chapter. Any employee of the City of DeKalb who violates any provision of this Chapter may also be subject to discipline and discharge. Any officer of the City of DeKalb who violates any provision of this Chapter may also be subject to censure, suspension and removal.

c) This Chapter does not create or form the basis of a private right of action against the City of DeKalb or its employees, officials or agents.

#### 8.07 AMENDMENTS.

a) This Chapter does not repeal or otherwise amend or modify any existing ordinances or policies which regulate the conduct of the City of DeKalb's officers and employees. To the extent that any such existing ordinances or policies are less restrictive than this Chapter, ~~however,~~ the provisions of this Chapter shall prevail ~~in accordance with the provisions of 5 ILCS 430/70-5(a).~~

b) Any amendment to the Act or Illinois Human Rights Act that becomes effective after the effective date of this Chapter shall be incorporated into this Chapter by reference and shall be applicable to the solicitation, acceptance, offering and making of gifts and to prohibited political activities. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Chapter by reference without formal action by the Corporate authorities of the City of DeKalb.

#### ~~8.08 — SEVERABILITY.~~

~~a) If the Illinois Supreme Court declares the Act unconstitutional in its entirety, then this Chapter shall be repealed as of the date that the Illinois Supreme Court's decision becomes final and not subject to any further appeals or rehearings. This Chapter shall be deemed repealed without further action by the Corporate Authorities of the City of DeKalb if the Act~~

**Municipal Code - City of DeKalb**  
**Chapter 8, "City Officials and Employees Ethics Act"**

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~~is found unconstitutional by the Illinois Supreme Court.~~

~~b) If the Illinois Supreme Court declares part of the Act unconstitutional but upholds the constitutionality of the remainder of the Act, or does not address the remainder of the Act, then the remainder of the Act as adopted by this Chapter shall remain in full force and effect; however, that part of this Chapter relating to the part of the Act found unconstitutional shall be deemed repealed without further action by the Corporate Authorities of the City of DeKalb."~~