

ORDINANCE 2021-040

PASSED: NOVEMBER 8, 2021

**AMENDING THE MUNICIPAL CODE OF THE CITY OF DEKALB, ILLINOIS BY
ADDING A NEW CHAPTER 46 "CITIZEN POLICE REVIEW BOARD".**

WHEREAS, the City of DeKalb (the "City") is a home rule unit of local government and 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's corporate authorities find that amending the City's Municipal Code to add a new Chapter 46 "Citizen Police Review Board" as more thoroughly set forth in Exhibit A attached hereto and incorporated herein (the "Amendment") to provide an independent civilian police review board is in the City's best interests for the promotion of the public health, safety, morals and welfare; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL of the City of DeKalb, DeKalb County, Illinois, as follows:

SECTION 1: The City's corporate authorities adopt and approve the Amendment to the City's Municipal Code adding a new Chapter 46 "Citizen Police Review Board" as set forth in Exhibit A attached hereto and incorporated herein.


SECTION 2: 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 provision 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 City's corporate authorities that to the extent that the terms of this ordinance should be inconsistent with any non-preemptive state law, that this resolution shall supersede state law in that regard within its jurisdiction.

SECTION 3: This Ordinance shall be in full force and effect 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 13th day of September 2021 and approved by me as Mayor on the same day. Passed on First Reading by an 8-0 roll call vote. Aye: Morris, Larson, Smith, Perkins, McAdams, Verbic, Faivre, Barnes. Nay: None. Second Reading passed by an 8-0 roll call vote on the 8th day of November 2021. Aye: Morris, Larson, Smith, Perkins, McAdams, Verbic, Faivre, Barnes. Nay: None.




COHEN BARNES, Mayor

ATTEST:

Ruth A. Scott, Executive Assistant

CHAPTER 46 CITIZEN POLICE REVIEW BOARD

EFFECTIVE DATE: November 8, 2021 (Ordinance 2021-040)

SECTIONS:

46.01 ESTABLISHMENT

46.02 DEFINITIONS

46.03 MEMBERSHIP AND OFFICERS

46.04 MEETINGS

46.05 DUTIES AND AUTHORITY

46.06 PUBLIC INSPECTION

46.07 SEVERABILITY

46.01 ESTABLISHMENT

There is hereby established a Citizen Police Review Board (the "Board" or "CPRB") for the City of DeKalb.

- a) Policy. It is the expressed intent of this Chapter to invite transparency and accountability which promote greater trust and understanding with respect to law enforcement training, policies, practices, and procedures.
- b) Mission Statement. The mission of the Board is to promote the highest principles of professional police conduct including, but not limited to, fairness, empathy, and consistency in police and community relations, the use of force, and the investigation of citizen complaints.

46.02 DEFINITIONS

For the purpose of this Chapter 46, the following words shall have the meanings hereinafter assigned to them.

- a) "Administrative Proceeding" shall mean the same definition as provided by the Uniform Peace Officers' Disciplinary Act (the "UPODA"), 50 ILCS 725/1, *et seq.*
- b) "Board" shall mean the Citizen Police Review Board (the "CPRB"). The Board shall serve as an advisory subsidiary public body to the Corporate Authorities. The Board shall not be considered an administrative agency of the City of DeKalb, nor shall the Board's proceedings be considered as an Administrative Proceeding, but the Board shall be considered as a "Quasi-adjudicative body" under the Illinois Open Meetings Act (the "OMA"), 5 ILCS 120/1, *et seq.*, with the responsibility to conduct hearings, receive evidence or testimony, and make determinations thereon as provided by this Chapter.
- c) "Chief of Police" or "Police Chief" shall mean the same office as provided by Section 4.02 of this Code. For the sole purpose of describing said office under this Section, the Chief of Police is the head of the DeKalb Police Department, who is appointed or removed at the discretion of the City Manager, and who possesses the responsibility and the authority for the supervision of all sworn officers and civilian employees of the Police Department and the custody, care, and control of the public property, records, and equipment of the Department.

- d) "City Manager" shall mean the same office as provided by Section 3.07 of this Code. For the sole purpose of describing said office under this Section, the City Manager is the chief administrative officer of the city government, who is appointed by the Mayor and Council voting jointly, and who possesses the power and duty to appoint and remove all department heads including, but not limited to, the Police Chief.
- e) "Corporate Authorities" shall mean the Mayor and City Council of the City of DeKalb.
- f) "Citizen Complaint" or "Formal Complaint" shall mean a written complaint against a Police Officer alleging the Police Officer's misconduct which is supported by a sworn statement that the opinions set forth in the written complaint are true and correct.
- g) "Complainant" shall mean the affiant(s) of a Citizen Complaint.
- h) "Department" shall mean the DeKalb Police Department.
- i) "Formal Investigation" shall mean the same definition as provided by the UPODA.
- j) "Informal Inquiry" shall mean the same definition as provided by the UPODA.
- k) "Minor Infraction" shall mean a Police Officer's potential violation of Department rules which may be noted on the Police Officer's record, but which may not result in removal, discharge or suspension in excess of three (3) days.
- l) "Police Officer" shall mean the same office as provided by Section 4.04 of this Code. For the sole purpose of describing said office under this Section, a Police Officer is a duly sworn police officer and an employee of the Department who is primarily responsible for prevention or detection of crime and the enforcement of the State of Illinois criminal code, State of Illinois traffic laws, or ordinances of the City of DeKalb.
- m) "Use of Force" shall mean the amount of effort or application of force employed by a Police Officer in the exercise of the Police Officer's duties including, but not limited to, making an arrest or other seizure (see 720 ILCS 5/7-5 to 5.5), defending the Police Officer or others (720 ILCS 5/7-1), rendering medical aid and assistance consistent with the Police Officer's training and requesting emergency medical assistance if necessary (see 720 ILCS 5/7-15), and intervening to prevent or stop another peace officer in the Police Officer's presence from using any unauthorized force (see 720 ILCS 5/7-16). In evaluating the particular use of force consistent with Department policy and applicable law, the Board shall consider the totality of the circumstances from the perspective of an objectively reasonable Police Officer on the scene at the time of the use of force, rather than with the perfect vision of hindsight, while allowing for the fact that a Police Officer is often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving. In judging the amount of force that is necessary in a particular situation, the Board shall also consider that a Police Officer's use of force is a serious responsibility which shall be exercised judiciously and with respect for human rights and dignity and for the sanctity of every human life (see 720 ILCS 5/7-5, *et seq.*; *Graham v. Connor*, 490 U.S. 386 (1989)).

46.03 MEMBERSHIP AND OFFICERS

- a) Members. The Board shall have five (5) civilian members, who shall be appointed by the Mayor with the advice and consent of the City Council, for staggered, two-year terms, which

shall begin on January 1 of each calendar year and end on December 31 of each calendar year. The initial appointments shall be staggered as follows:

1. Three (3) members shall be appointed to serve two-year terms; and,
2. Two (2) members shall be appointed to serve one-year terms.

Except as may otherwise be provided by this subsection for the initial appointments, the term of each member shall be two (2) years. No Board member shall serve more than two (2) consecutive full terms. No Board member shall be a current or former Police Officer, a current City officer or employee, or an immediate family member of a current or former Police Officer. No Board member shall serve until the member has completed the Required Training described in Section 46.03, Paragraph f. No Board member shall be required to give any bond, nor shall any Board member receive any compensation. The vacancy and removal of a Board member shall occur in the manner provided by law.

- b) Chairperson. The Board chair (the "Chair") shall be appointed by the Mayor from the appointed members. The Chair may be re-appointed at the discretion of the Mayor with the advice and consent of the Council in January of each calendar year. The Chair is subject to the term limits described in Section 46.03, Paragraph a.
- c) Board Secretary. The Board Secretary shall be a professional staff employee of the City of DeKalb to support the record-keeping of the Board. The Board Secretary shall be appointed by, and serve at the pleasure of, the City Manager. The Board Secretary shall keep the minutes of Board meetings, ensure the custody and control of all records that are pertinent to Board proceedings, and be responsible (in coordination with the City's FOIA Officer) for the public dissemination of information required by law and this Section.
- d) All Board members shall be residents and qualified electors of the City of DeKalb.
- e) The Corporate Authorities shall strive to appoint and approve Board members who reflect the diversity of the community including, but not limited to, age, ancestry, color, disability, education, ethnicity, gender, geography, marital status, military status, national origin, race, religion, sex, sexual orientation, and socio-economic status.
- f) Required Training. To promote fluency in the Department's policies and protocols and responsibly perform their duties, all Board members shall complete, prior to the commencement of their respective terms, a civilian "police academy" that may include, but is not limited to, the following:
 - scenario-based virtual training;
 - an overview of the Department's organization, operation, equipment, weapons, and Use of Force policies; and
 - an overview of applicable law governing the Use of Force, the OMA, and this Code (including, but not limited to, this Section and the City's ethics ordinance).

The Chief of Police, in consultation with the City Manager, shall be responsible for the required training. All nominees shall participate in the same training, and no grade or performance ranking, except for the completion of the minimum training hours, shall be required to complete the required training.

46.04 MEETINGS

- a) The Board shall conduct its public meetings in accordance with the OMA and other applicable laws and ordinances governing the conduct and transparency of Board meetings.
- b) The Board shall meet not less than six (6) times per year. Additionally, either the Chair or two Board members may call a special meeting to address the following: (1) a Citizen's Complaint against the Chief of Police or any Police Officer; and (2) a Citizen's Complaint, an Informal Inquiry, Formal Investigation, or a Minor Infraction involving the Use of Force by the Chief of Police or any Police Officer. The Chief of Police shall promptly inform the Chair of any matter for which a special meeting may be called pursuant to this subsection.
- c) The Board proceedings shall be conducted according to Robert's Rules of Order, as revised in its latest edition.
- d) The majority of the Board shall constitute a quorum to do business. The affirmative vote of a majority of the quorum shall be required for any Board action including, but not limited to, the Board's written recommendations.
- e) The Chair shall be the presiding officer and shall preserve decorum, recognizing members who wish to speak. Except with the permission of the Chair, no member shall speak in an uninterrupted fashion for more than five (5) minutes. Additionally, no member shall speak more than once on the same question until all other members shall have had an opportunity to speak.
- f) In the absence of the Chair, a quorum of the Board may select an acting Chair from the Board members.
- g) The Board shall establish policies, procedures, rules, and regulations for the conduct of its meetings and the execution of its duties.
- f) Upon the written request of the Police Chief, City Manager, City Attorney, or any outside law enforcement or prosecuting authority (e.g., the DeKalb State's Attorney's Office, Illinois Law Enforcement Training Standards Board, Illinois State Police, and other such agencies), the Board shall meet in closed session as may be allowed by law and/or suspend any Board action that is the subject of the written request. Such a request shall be made only when, in the sole exercise of the requester's respective opinion and discretion, the requester reasonably believes that the request may prevent interference with a pending or reasonably contemplated criminal investigation, Formal Investigation, Administrative Proceeding, or litigation involving a Police Officer or the City, or otherwise protect confidential interests involving the discipline, performance, or dismissal of a Police Officer, or the identity of a victim or witness. Notwithstanding the foregoing to the contrary, the Police Chief shall not be allowed to make such a request if the Police Chief is the subject of the request.

46.05 DUTIES AND AUTHORITY

- a) Policy Review and Recommendations. The Board shall review and consider the policies, procedures, rules, and regulations of the Department, and provide written recommendation(s) to the Police Chief of changes that are consistent with the Board's mission. The Police Chief shall review and discuss the Board's written recommendation(s) at the next regularly

scheduled Board meeting following the Board's approval of said written recommendation(s). The Board may hold closed meetings to consider such subjects as may be allowed by law.

- b) Monitoring of Police Training. The Board shall monitor the Department's compliance with the training mandates of the SAFE-T Act (Public Act 101-0652) and shall receive quarterly reports from the Chief of Police regarding the status of the Department's compliance efforts.
- c) Consideration of Citizen Complaints and a Police Officer's Use of Force. The Board shall:
 - 1. Receive all Citizen Complaints and refer them to the Chief of Police for review;
 - 2. Reject all anonymous, oral, unsigned, unsworn, or unverified complaints that fail to qualify as a Citizen Complaint under this Section in a written letter signed by the Chair to the Complainant stating the reason(s) for the Board's rejection;
 - 3. Consider whether a Citizen Complaint or a Police Officer's Use of Force presents a reasonable basis to believe that a Police Officer may have violated a Department policy, and provide written recommendations regarding same to the Chief of Police;
 - 4. Conduct an Informal Inquiry regarding a Citizen Complaint or a Police Officer's Use of Force, mediate same, or discuss the facts of same to determine whether a Formal Investigation should be commenced, and provide written recommendations regarding same to the Chief of Police;
 - 5. Consider evidence or testimony from the Complainant and other relevant witnesses in an open hearing as part of an Informal Inquiry or Minor Infraction regarding a Citizen Complaint or a Police Officer's Use of Force;
 - 6. Prior to the Police Chief's issuance of any discipline resulting from a Minor Infraction or Formal Investigation of a Citizen Complaint or a Police Officer's Use of Force, the Commission shall review the records regarding same (including, but not limited to, police case records and internal reports, incident reports, interview transcripts, and audio/photo/video recordings), and provide written recommendations to the Chief of Police as to whether the Board finds that it is more likely than not that a Police Officer violated a Department policy and the discipline, if any, which should be imposed for said violation(s);
 - 7. Receive a timely report from the Police Chief of the ultimate disposition of any discipline resulting from a Minor Infraction or Formal Investigation of a Citizen Complaint or a Police Officer's Use of Force;
 - 8. Refer any knowingly false material information provided in a Citizen Complaint or other testimony before the Board to the City Attorney for a determination of prosecution;
 - 9. Request the cooperation of any Complainant, Police Officer, or City employee in connection with the Board's consideration of a Citizen's Complaint and a Police Officer's Use of Force;
 - 10. Inform the Complainant in writing or at an open meeting of the Board's consideration of the Citizen Complaint;

11. Refrain from formally considering the final decision of any Administrative Proceeding or discipline issued; and
 12. If the Police Chief is the subject of a Citizen Complaint or Police Officer's Use of Force, refer same and the Board's written recommendations to the City Manager.
- d) No Police Officer shall be subjected to an Interrogation before the Board, nor shall any Police Officer be compelled to appear, attend, cooperate or participate in any proceeding before the Board including, but not limited to, the Board's consideration of an Informal Inquiry, Minor Infraction, or Formal Investigation.

46.06 PUBLIC INSPECTION

The Board Secretary, in coordination with the City Manager, shall create and maintain a website page for the Board on the City's official website that describes the Board and the Board's members, duties, and authority. The website page shall also provide the following information:

1. A copy of this Chapter;
2. The Department's official website, organizational chart, and publicly posted policies,
3. A Citizen Complaint form with instructions regarding the filing of same;
4. The Board's process and expected timing for referring and considering a Citizen Complaint;
5. The Board's agendas, minutes, regulations, and written recommendations; and
6. The final decision of any discipline relating to a Citizen's Complaint or a Police Officer's Use of Force.

To the extent allowed by law, the Board shall keep confidential and exempt from public disclosure the Complainant's identity, the victim's identity, all records relating to an Administrative Proceeding or Formal Investigation (except the final outcome of any discipline imposed), all matters discussed in closed session, and all other information which may be exempt from public disclosure under the OMA and the Illinois Freedom of Information Act (the "FOIA"), 5 ILCS 140/1, *et seq.*, including, but not limited to, the Citizen Police Review Board OMA/FOIA Exceptions/Exemptions attached hereto and incorporated herein by reference as Exhibit A (the "Confidential Information"). A person's intentional failure to keep confidential the Confidential Information shall be a violation of this Code that is subject to administrative adjudication and a penalty consisting of fine in an amount not to exceed \$750 plus costs, as well as such other penalties and remedies as may be provided by law including, but not limited to, removal of office and criminal prosecution.

46.07 SEVERABILITY

If any section, paragraph, sentence, or clause of this Chapter 46 is, for any reason, held to be invalid, unconstitutional, or in conflict with any part of the DeKalb Municipal Code, such decisions shall not affect the validity of any other part of this Chapter.

CITIZEN POLICE REVIEW BOARD OMA/FOIA EXCEPTIONS/EXEMPTIONS

The following is a non-exhaustive list of potentially applicable reasons for holding closed sessions of the CPRB and withholding certain CPRB records from public disclosure:

OMA CLOSED SESSION EXCEPTIONS

5 ILCS 120/(2)(c)(1): The consideration of discipline, performance, or dismissal of specific employees of the public body, including hearing testimony on a complaint lodged against an employee of the public body to determine its validity.

5 ILCS 120/(2)(c)(4): The consideration of evidence or testimony, provided that the body prepares and makes available for public inspection a written decision setting forth its determinative reasoning.

5 ILCS 120/(2)(c)(8): The consideration of security procedures ... and the use of personnel and equipment to respond to an actual, threatened, or a reasonably potential danger to the safety of employees, ... staff, the public, or public property.

5 ILCS 120/(2)(c)(14): The consideration of informant sources, the hiring or assignment of undercover personnel or equipment, or ongoing, prior or future criminal investigations, when discussed by a public body with criminal investigatory responsibilities.

5 ILCS 120/(2)(c)(21): The discussion of closed minutes.

FOIA EXEMPTIONS

5 ILCS 140/(7)(1)(b): Private information, such as social security number, driver's license number, home address, personal telephone number, personal email address, biometric information, personal financial information, signatures, and medical records; but not badge numbers, business telephone numbers, and business email addresses.

5 ILCS 140/(7)(1)(c): Personal information, such as dates of birth, race, graphic photographs, victim's name and identifying information, names of persons who were not arrested/charged, and names of relatives.

5 ILCS 140/(7)(1)(d)(i): Records that would interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by the City.

5 ILCS 140/(7)(1)(d)(ii): Records that would interfere with active administrative enforcement proceedings conducted by the City.

5 ILCS 140/(7)(1)(d)(iv): Records that would disclose the identity of a confidential informant, confidential information furnished by a confidential source, or the identity of persons who file complaints with or provide information to administrative, investigative or law enforcement agencies.

5 ILCS 140/7(1)(d)(vi): Records that would endanger the life or physical safety of law enforcement personnel or any other person.

5 ILCS 140/7(1)(f): Preliminary drafts, notes, recommendation, memoranda and other records in which opinions are expressed or policies or actions are formulated.

5 ILCS 140/7(1)(n): Records relating to a public body's adjudication of employee grievances or disciplinary cases, but not the final outcome of cases in which discipline is imposed.

5 ILCS 140/7(1)(v): Vulnerability assessments, security measures, and response policies or plans that are used to identify, prevent, or respond to potential attacks upon a community's population.

5 ILCS 140/7.5(bb): Information prohibited from disclosure by the Juvenile Court Act.

5 ILCS 140/7.5(cc): Officer-worn body camera footage that is prohibited from disclosure by the Officer-Worn Body Camera Act

CHAPTER 46 CITIZEN POLICE REVIEW BOARD

EFFECTIVE DATE: _____

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46.02 DEFINITIONS

For the purpose of this Chapter 46, the following words shall have the meanings hereinafter assigned to them.

- a) "Administrative Proceeding" shall mean ~~either the same definition as provided by the Uniform Peace Officers' Disciplinary Act (the "UPODA"), 50 ILCS 725/1, et seq., or any non-judicial hearing which is authorized to recommend, approve, or order the suspension, removal, decertification, or discharge of a Police Officer.~~
- b) "Board" shall mean the Citizen Police Review Board (the "CPRB"). The Board shall serve as an advisory subsidiary public body to the Corporate Authorities. The Board shall not be considered an administrative agency of the City of DeKalb, nor shall the Board's proceedings be considered as an Administrative Proceeding, but the Board shall be considered as a "Quasi-adjudicative body" under the Illinois Open Meetings Act (the "OMA"), 5 ILCS 120/1, et seq., with the responsibility to conduct hearings, receive evidence or testimony, and make determinations thereon as provided by this Chapter.
- c) "Chief of Police" or "Police Chief" shall mean the same office as provided by Section 4.02 of this Code. For the sole purpose of describing said office under this Section, the Chief of Police is the head of the DeKalb Police Department, who is appointed or removed at the discretion of the City Manager, and who possesses the responsibility and the authority for the

supervision of all sworn officers and civilian employees of the Police Department and the custody, care, and control of the public property, records, and equipment of the Department.

- d) "City Manager" shall mean the same office as provided by Section 3.07 of this Code. For the sole purpose of describing said office under this Section, the City Manager is the chief administrative officer of the city government, who is appointed by the Mayor and Council voting jointly, and who possesses the power and duty to appoint and remove all department heads including, but not limited to, the Police Chief.
- e) "Corporate Authorities" shall mean the Mayor and City Council of the City of DeKalb.
- f) "Citizen Complaint" or "Formal Complaint" shall mean a written complaint against a Police Officer alleging the Police Officer's misconduct which is supported by a sworn statement that the opinions set forth in the written complaint are true and correct.
- g) "Complainant" shall mean the affiant(s) of a Citizen Complaint.
- h) "Department" shall mean the DeKalb Police Department.
- i) "Formal Investigation" shall mean ~~either the same definition as provided by the UPODA or the process of investigation ordered by a commanding Police Officer during which the questioning of a Police Officer is intended to gather evidence of misconduct which may be the basis for filing charges seeking his or her suspension in excess of three (3) days, or his or her removal or discharge.~~
- j) "Informal Inquiry" shall mean ~~either the same definition as provided by the UPODA or a meeting by a supervisory or command Police Officer with a Police Officer upon whom an allegation of misconduct has come to the attention of such supervisory or command Police Officer, the purpose of which meeting is to mediate a citizen complaint or discuss the facts to determine whether a formal investigation should be commenced.~~
- k) "Minor Infraction" shall mean a Police Officer's potential violation of Department rules which may be noted on the Police Officer's record, but which may not result in removal, discharge or suspension in excess of three (3) days.
- l) "Police Officer" shall mean the same office as provided by Section 4.04 of this Code. For the sole purpose of describing said office under this Section, a Police Officer is a duly sworn police officer and an employee of the Department who is primarily responsible for prevention or detection of crime and the enforcement of the State of Illinois criminal code, State of Illinois traffic laws, or ordinances of the City of DeKalb.
- m) "Use of Force" shall mean the amount of effort or application of force employed by a Police Officer in the exercise of the Police Officer's duties including, but not limited to, making an arrest or other seizure (see 720 ILCS 5/7-5 to 5.5), defending the Police Officer or others (720 ILCS 5/7-1), rendering medical aid and assistance consistent with the Police Officer's training and requesting emergency medical assistance if necessary (see 720 ILCS 5/7-15), and intervening to prevent or stop another peace officer in the Police Officer's presence from using any unauthorized force (see 720 ILCS 5/7-16). In evaluating the particular use of force consistent with Department policy and applicable law, the Board shall consider the totality of the circumstances from the perspective of an objectively reasonable Police Officer on the

scene at the time of the use of force, rather than with the perfect vision of hindsight, while allowing for the fact that a Police Officer is often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving. In judging the amount of force that is necessary in a particular situation, the Board shall also consider that a Police Officer's use of force is a serious responsibility which shall be exercised judiciously and with respect for human rights and dignity and for the sanctity of every human life (see 720 ILCS 5/7-5, *et seq.*; *Graham v. Connor*, 490 U.S. 386 (1989)).

46.03 MEMBERSHIP AND OFFICERS

- a) **Members.** The Board shall have five (5) civilian members, who shall be appointed by the Mayor with the advice and consent of the City Council, for staggered, two-year terms, which shall begin on January 1 of each calendar year and end on December 31 of each calendar year. The initial appointments shall be staggered as follows:

1. Three (3) members shall be appointed to serve two-year terms; and,
2. Two (2) members shall be appointed to serve one-year terms.

Except as may otherwise be provided by this subsection for the initial appointments, the term of each member shall be two (2) years. No Board member shall serve more than two (2) consecutive full terms. No Board member shall be a current or former Police Officer, a current City officer or employee, or an immediate family member of a current or former Police Officer. No Board member shall serve until the member has completed the Required Training described in Section 46.03, Paragraph f. No Board member shall be required to give any bond, nor shall any Board member receive any compensation. The vacancy and removal of a Board member shall occur in the manner provided by law.

- b) **Chairperson.** The Board chair (the "Chair") shall be appointed by the Mayor from the appointed members. The Chair may be re-appointed at the discretion of the Mayor with the advice and consent of the Council in January of each calendar year. The Chair is subject to the term limits described in Section 46.03, Paragraph a.
- c) **Board Secretary.** The Board Secretary shall be a professional staff employee of the City of DeKalb to support the record-keeping of the Board. The Board Secretary shall be appointed by, and serve at the pleasure of, the City Manager. The Board Secretary shall keep the minutes of Board meetings, ensure the custody and control of all records that are pertinent to Board proceedings, and be responsible (in coordination with the City's FOIA Officer) for the public dissemination of information required by law and this Section.
- d) All Board members shall be residents and qualified electors of the City of DeKalb.
- e) The ~~Corporate Authorities~~ **Mayor and City Council** shall strive to appoint and approve Board members who reflect the diversity of the community including, but not limited to, age, ancestry, color, disability, education, ethnicity, gender, geography, marital status, military status, national origin, race, religion, sex, sexual orientation, and socio-economic status.
- f) **Required Training.** To promote fluency in the Department's policies and protocols and responsibly perform their duties, all Board members shall complete, prior to the

commencement of their respective terms, a civilian "police academy" that may include, but is not limited to, the following:

- scenario-based virtual training;
- an overview of the Department's organization, operation, equipment, weapons, and Use of Force policies; and
- an overview of applicable law governing the Use of Force, the ~~Illinois Open Meetings Act (the "OMA"), 5 ILCS 120/1, et seq.~~, and this Code (including, but not limited to, this Section and the City's ethics ordinance).

The Chief of Police, in consultation with the City Manager, shall be responsible for the required training. All nominees shall participate in the same training, and no grade or performance ranking, except for the completion of the minimum training hours, shall be required to complete the required training.

46.04 MEETINGS

- a) The Board shall conduct its public meetings in accordance with the OMA and other applicable laws and ordinances governing the conduct and transparency of Board meetings.
- b) The Board shall meet not less than six (6) times per year. Additionally, either the Chair or two Board members may call a special meeting to address the following: (1) a Citizen's Complaint against the Chief of Police or any Police Officer; and (2) a Citizen's Complaint, an Informal Inquiry, Formal Investigation, or a Minor Infraction involving the Use of Force by the Chief of Police or any Police Officer. The Chief of Police shall promptly inform the Chair of any matter for which a special meeting may be called pursuant to this subsection.
- c) The Board proceedings shall be conducted according to Robert's Rules of Order, as revised in its latest edition.
- d) The majority of the Board shall constitute a quorum to do business. The affirmative vote of a majority of the quorum shall be required for any Board action including, but not limited to, the Board's written recommendations.
- e) The Chair shall be the presiding officer and shall preserve decorum, recognizing members who wish to speak. Except with the permission of the Chair, no member shall speak in an uninterrupted fashion for more than five (5) minutes. Additionally, no member shall speak more than once on the same question until all other members shall have had an opportunity to speak.
- f) In the absence of the Chair, a quorum of the Board may select an acting Chair from the Board members.
- g) The Board shall establish policies, procedures, rules, and regulations for the conduct of its meetings and the execution of its duties.
- f) Upon the written request of the Police Chief, City Manager, City Attorney, or any outside law enforcement or prosecuting authority (e.g., the DeKalb State's Attorney's Office, Illinois Law

Enforcement Training Standards Board, Illinois State Police, and other such agencies), the Board shall meet in closed session as may be allowed by law and/or suspend any Board action that is the subject of the written request. Such a request shall be made only when, in the sole exercise of the requester's respective opinion and discretion, the requester reasonably believes that the request may prevent interference with a pending or reasonably contemplated criminal investigation, Formal Investigation, Administrative Proceeding, or litigation involving a Police Officer or the City, or otherwise protect confidential interests involving the discipline, performance, or dismissal of a Police Officer, or the identity of a victim or witness. Notwithstanding the foregoing to the contrary, the Police Chief shall not be allowed to make such a request if the Police Chief ~~or a Police Officer's Use of Force~~ is the subject of the request. ~~a Citizen's Complaint.~~

46.05 DUTIES AND AUTHORITY

- a) **Policy Review and Recommendations.** The Board shall review and consider the policies, procedures, rules, and regulations of the Department, and provide written recommendation(s) to the Police Chief ~~as to~~ of changes that are consistent with the Board's mission. The Police Chief shall review and discuss the Board's written recommendation(s) at the next regularly scheduled Board meeting following the Board's approval of said written recommendation(s). The Board may hold closed meetings to consider such subjects as may be allowed by law.
- b) **Monitoring of Police Training.** The Board shall monitor the Department's compliance with the training mandates of the SAFE-T Act (Public Act 101-0652) and shall receive quarterly reports from the Chief of Police regarding the status of the Department's compliance efforts.
- c) **Consideration of Citizen Complaints and a Police Officer's Use of Force.** The Board shall:
 1. Receive all Citizen Complaints and refer them to the Chief of Police for review;
 2. Reject all anonymous, oral, unsigned, unsworn, or unverified complaints that fail to qualify as a Citizen Complaint under this Section in a written letter signed by the Chair to the Complainant stating the reason(s) for the Board's rejection;
 3. Consider whether a Citizen Complaint or a Police Officer's Use of Force presents a reasonable basis to believe that a Police Officer may have violated a Department policy, and provide written recommendations regarding same to the Chief of Police;
 4. Conduct an Informal Inquiry regarding a Citizen Complaint or a Police Officer's Use of Force, mediate same, or discuss the facts of same to determine whether a Formal Investigation should be commenced, and provide written recommendations regarding same to the Chief of Police;
 5. Consider evidence or testimony from the Complainant and other relevant witnesses in an open hearing as part of an Informal Inquiry or Minor Infraction regarding a Citizen Complaint or a Police Officer's Use of Force;
 6. Prior to the Police Chief's issuance of any discipline resulting from a Minor Infraction or Formal Investigation of a Citizen Complaint or a Police Officer's Use of Force, the Commission shall review the records regarding same (including, but not limited to, police case records and internal reports, incident reports, interview transcripts, and

audio/photo/video recordings), and provide written recommendations to the Chief of Police as to whether the Board finds that it is more likely than not that a Police Officer violated a Department policy and the discipline, if any, which should be imposed for said violation(s);

7. Receive a timely report from the Police Chief of the ultimate disposition of any discipline resulting from a Minor Infraction or Formal Investigation of a Citizen Complaint or a Police Officer's Use of Force;
8. Refer any knowingly false material information provided in a Citizen Complaint or other testimony before the Board to the City Attorney for a determination of prosecution;
9. Request the cooperation of any Complainant, Police Officer, or City employee in connection with the Board's consideration of a Citizen's Complaint and a Police Officer's Use of Force;
10. Inform the Complainant in writing or at an open meeting of the Board's consideration of the Citizen Complaint;
11. Refrain from formally considering the final decision of any Administrative Proceeding or discipline issued; and
12. If the Police Chief is the subject of a Citizen Complaint or Police Officer's Use of Force, refer same and the Board's written recommendations to the City Manager.

~~12.~~ d) No Police Officer shall be subjected to an Interrogation before the Board, nor shall any Police Officer be compelled to appear, attend, cooperate or participate in any proceeding before the Board including, but not limited to, the Board's consideration of an Informal Inquiry, Minor Infraction, or Formal Investigation.

46.06 PUBLIC INSPECTION

The Board Secretary, in coordination with the City Manager, shall create and maintain a website page for the Board on the City's official website that describes the Board and the Board's members, duties, and authority. The website page shall also provide the following information:

1. A copy of this ~~Section~~Chapter;
2. The Department's official website, organizational chart, and publicly posted policies,
3. A Citizen Complaint form with instructions regarding the filing of same;
4. The Board's process and expected timing for referring and considering a Citizen Complaint;
5. The Board's agendas, minutes, regulations, and written recommendations; and
6. The final decision of any discipline relating to a Citizen's Complaint ~~and~~or a Police Officer's Use of Force.

To the extent allowed by law, the Board shall keep confidential and exempt from public disclosure the Complainant's identity, the victim's identity, all records relating to an Administrative Proceeding or Formal Investigation (except the final outcome of any discipline imposed), all matters discussed in closed session, and all other information which may be exempt from public disclosure under the OMA and the Illinois Freedom of Information Act (the "FOIA"), 5 ILCS 140/1, et seq., including, but not limited to, the Citizen Police Review Board OMA/FOIA Exceptions/Exemptions attached hereto and incorporated herein by reference as Exhibit A (the "Confidential Information"). A person's intentional failure to keep confidential the Confidential Information shall be a violation of this Code that is subject to administrative adjudication and a penalty consisting of fine in an amount not to exceed \$750 plus costs, as well as such other penalties and remedies as may be provided by law including, but not limited to, removal of office and criminal prosecution.

46.07 SEVERABILITY

If any section, paragraph, sentence, or clause of this Chapter 46 is, for any reason, held to be invalid, unconstitutional, or in conflict with any part of the DeKalb Municipal Code, such decisions shall not affect the validity of any other part of this Chapter.

EXHIBIT A

CITIZEN POLICE REVIEW BOARD OMA/FOIA EXCEPTIONS/EXEMPTIONS

The following is a non-exhaustive list of potentially applicable reasons for holding closed sessions of the CPRB and withholding certain CPRB records from public disclosure:

OMA CLOSED SESSION EXCEPTIONS

5 ILCS 120/(2)(c)(1): The consideration of discipline, performance, or dismissal of specific employees of the public body, including hearing testimony on a complaint lodged against an employee of the public body to determine its validity.

5 ILCS 120/(2)(c)(4): The consideration of evidence or testimony, provided that the body prepares and makes available for public inspection a written decision setting forth its determinative reasoning.

5 ILCS 120/(2)(c)(8): The consideration of security procedures ... and the use of personnel and equipment to respond to an actual, threatened, or a reasonably potential danger to the safety of employees, ... staff, the public, or public property.

5 ILCS 120/(2)(c)(14): The consideration of informant sources, the hiring or assignment of undercover personnel or equipment, or ongoing, prior or future criminal investigations, when discussed by a public body with criminal investigatory responsibilities.

5 ILCS 120/(2)(c)(21): The discussion of closed minutes.

FOIA EXEMPTIONS

5 ILCS 140/(7)(1)(b): Private information, such as social security number, driver's license number, home address, personal telephone number, personal email address, biometric information, personal financial information, signatures, and medical records; but not badge numbers, business telephone numbers, and business email addresses.

5 ILCS 140/(7)(1)(c): Personal information, such as dates of birth, race, graphic photographs, victim's name and identifying information, names of persons who were not arrested/charged, and names of relatives.

5 ILCS 140/(7)(1)(d)(i): Records that would interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by the City.

5 ILCS 140/(7)(1)(d)(ii): Records that would interfere with active administrative enforcement proceedings conducted by the City.

5 ILCS 140/(7)(1)(d)(iv): Records that would disclose the identity of a confidential informant, confidential information furnished by a confidential source, or the identity of persons who file complaints with or provide information to administrative, investigative or law enforcement agencies.

5 ILCS 140/7(1)(d)(vi): Records that would endanger the life or physical safety of law enforcement personnel or any other person.

5 ILCS 140/7(1)(f): Preliminary drafts, notes, recommendation, memoranda and other records in which opinions are expressed or policies or actions are formulated.

5 ILCS 140/7(1)(n): Records relating to a public body's adjudication of employee grievances or disciplinary cases, but not the final outcome of cases in which discipline is imposed.

5 ILCS 140/7(1)(v): Vulnerability assessments, security measures, and response policies or plans that are used to identify, prevent, or respond to potential attacks upon a community's population.

5 ILCS 140/7.5(bb): Information prohibited from disclosure by the Juvenile Court Act.

5 ILCS 140/7.5(cc): Officer-worn body camera footage that is prohibited from disclosure by the Officer-Worn Body Camera Act