

**AMENDING CHAPTER 2, "CITY COUNCIL", SECTION 2.12 "RULES OF ORDER AND PROCEDURE", AND CHAPTER 3 "CITY ADMINISTRATION", SECTION 3.14 "CITY CLERK", AS IT PERTAINS TO THE APPOINTMENT OF A RECORDING SECRETARY TO THE CITY COUNCIL.**

**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**, pursuant to Section 3.1-10-40 of the Illinois Municipal Code (65 ILCS 5/3.1-10-40) and the City's home rule powers, as construed and held by *Fazekas v. City of DeKalb*, 2021 IL App (2d) 200692, the City's corporate authorities may provide by ordinance that the City's officers, such as the Executive Assistant, may perform duties in addition to those which may be prescribed by law or which might duplicate those of the part-time City Clerk; and

**WHEREAS**, pursuant to Section 2.06(a) of the Illinois Open Meetings Act (the "OMA") (5 ILCS 120/2.06(a)), the City's corporate authorities shall keep written minutes of all their meetings, which shall include, but need not be limited to: (1) the date, time and place of the meeting; (2) the members of the public body recorded as either present or absent and whether the members were physically present or present by means of video or audio conference; and (3) a summary of discussion on all matters proposed, deliberated, or decided, and a record of any votes taken; and

**WHEREAS**, pursuant to Section 2.06(b) of the OMA (5 ILCS 120/2.06(b)), the City's corporate authorities shall approve the minutes of its open meeting within 30 days after that meeting or at the public body's second subsequent regular meeting, whichever is later; and

**WHEREAS**, pursuant to Sections 2.12(q) and 3.14(b) of the City's Municipal Code (the "DeKalb Municipal Code"), the part-time duties of City Clerk include taking and preparing the written minutes of the meetings of the City's corporate authorities; and

**WHEREAS**, the City's corporate authorities find that the City Clerk has not performed the duties of taking and preparing the written minutes of their meetings in a manner that is accurate, consistent, timely, professional, or in accordance with their desires; and

**WHEREAS**, the City's corporate authorities find that the Executive Assistant possesses the experience to perform the duties of the City Council's recording secretary including, but not limited to, taking and preparing the written minutes of their meetings in a manner that is accurate, consistent, timely, professional, or in accordance with their desires; and

**WHEREAS**, the City's corporate authorities find that it is in the City's best interests for the promotion of the public health, morals and welfare to appoint the Executive Assistant as the recording secretary of their meetings and to amend the DeKalb Municipal Code to expressly provide for same in accordance with the provisions of this Ordinance; and

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

**SECTION 1:** The recitals to this ordinance are true, correct, material, adopted and incorporated herein by reference as if fully set forth as this Section 1.

**SECTION 2:** The Mayor, by and with the advice and consent of the City Council, appoints the Executive Assistant as the City Council's recording secretary of the meetings of the City's corporate authorities, with duties including, but not limited to, taking and preparing the minutes of said meetings, recording the proceedings of the City's corporate authorities in the journal, and

such other duties as may be necessary to carry into effect the powers of the City Council's recording secretary or as may otherwise be prescribed by ordinance.

**SECTION 3:** The City's corporate authorities approve an amendment to Chapter 2 "City Administration", Section 2.12 "Rules of Order and Procedure", of the DeKalb Municipal Code, to state in its entirety as follows in Exhibit A (the "Section 2.12 Amendment") attached hereto and incorporated herein by reference as if fully set forth as this Section 3.

**SECTION 4:** The City's corporate authorities approve an amendment to Chapter 3 "City Administration", Section 3.14 "City Clerk", of the DeKalb Municipal Code, to state in its entirety as follows in Exhibit B (the "Section 3.14 Amendment") attached hereto and incorporated herein by reference as if fully set forth as this Section 4.

**SECTION 5:** 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 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 ordinance shall supersede state law in that regard within its jurisdiction. The invalidity of any section of this ordinance shall not invalidate other sections or provisions thereof.

**SECTION 6:** 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 22<sup>nd</sup> day of November 2021 and approved by me as Mayor on the same day. Passed on First Reading by a 6-0-2 roll call vote. Aye: Morris, Larson, Perkins, McAdams, Faivre, Barnes. Nay: None. Absent: Smith, Verbic. Second Reading waived by a 6-0-2 roll call vote. Aye: Morris, Larson, Perkins, McAdams, Faivre, Barnes. Nay: None. Absent: Smith, Verbic.



  
COHEN BARNES, Mayor

ATTEST:



Ruth A. Scott, Executive Assistant

**EXHIBIT A**  
**(The Section 2.12 Amendment)**

## **CHAPTER 2 CITY COUNCIL**

**LATEST REVISION:** December 28, 2020 (Ordinance 2020-079)

### **SECTIONS:**

- 2.01 CITY COUNCIL.**
- 2.02 MAYOR, VOTING POWER.**
- 2.03 FILLING ALDERMEN VACANCIES.**
- 2.04 COUNCIL MEETINGS.**
- 2.05 SPECIAL MEETINGS.**
- 2.06 DELETED.**
- 2.07 DELETED.**
- 2.08 DELETED.**
- 2.09 AGENDA.**
- 2.10 ORDINANCE AND RESOLUTION PROCEDURE.**
- 2.11 MATTERS OF PUBLIC CONCERN.**
- 2.12 RULES OF ORDER AND PROCEDURE.**
- 2.13 MATTERS REQUIRING VOTE GREATER THAN MAJORITY.**
- 2.14 CITY COUNCIL EXPENSES.**
- 2.15 ELECTED OFFICIALS SALARY REVIEW.**

### **2.01 CITY COUNCIL.**

With the exception of stating voting requirements, as reflected in Section 2.02, the term “The City Council” shall mean the Mayor and seven Aldermen. One Alderman shall be elected from each ward of the City. Terms of the Mayor and Aldermen shall be for four years, with the terms of the Aldermen staggered, so that at the regular election for Aldermen held in the Spring of 1973, one Alderman shall be elected from each odd numbered ward for a term of two years and one Alderman shall be elected from each even numbered ward for a term of four years; and thereafter, their successor-Alderman shall be elected for a term of four years. The Mayor shall preside at all meetings of the Council. The terms of elected municipal officials shall commence at the first Special meeting or the first Regular meeting of the corporate authorities during the month of May following the official proclamation of the results of the regular municipal election at which the officers were elected.

### **2.02 MAYOR, VOTING POWER.**

The Mayor of the City of DeKalb shall vote where authorized or required under 65 ILCS 5/5-3-5. The Mayor may recuse himself from any action where such recusal is required or permitted by law. Any Alderman serving as Acting Mayor or Mayor Pro Tem shall be authorized to vote as an Alderman of the City but shall not be authorized to vote utilizing the powers of the Mayor under this Section 2.02.

## **2.03 FILLING ALDERMEN VACANCIES.**

Vacancies in the office of Alderman in the City of DeKalb shall be filled pursuant to the provisions of 65 ILCS 5/3.1-10-50.

## **2.04 COUNCIL MEETINGS.**

- a) Regular meetings of the City Council shall be held on the second and fourth Mondays of each and every month, not commencing before 6:00 p.m. The City Council shall annually approve a meeting schedule outlining the anticipated Regular meetings for each year in accordance with the requirements of the Open Meetings Act ("the Act"). The City Council reserves the right to alter the date, time or location of City Council meetings from time to time and reserves the right to schedule additional or Special meetings, provided that the public receives notice of such alternate time or location in accordance with the requirements of the Act.
- b) At all Regular meetings of the City Council, the Council shall proceed to the business before them, which shall be conducted in the order as listed on the agenda for the meeting. Said agenda shall commence with Roll Call, the recital of the Pledge of Allegiance, the Approval of the Agenda and Public Participation, and shall conclude with Adjournment. The Agenda may also include other aspects of City business that may be necessary or advisable. The order of said items shall be determined by the City Manager, giving priority to public transparency, convenience to meeting participants and attendees, and the relationship between various items listed on the agenda.
- c) The City Manager may place any item on the Consent Agenda for consideration of approval. Each member of City Council shall have the right to remove any matter from the Consent Agenda at a City Council meeting and may entertain requests from the public for such removal. Items so removed during a meeting shall be moved on the agenda for separate consideration. Each item remaining on the Consent Agenda shall be passed in an omnibus fashion and shall require the concurrence of a majority vote of the Aldermen holding office, with the right of the Mayor to vote as otherwise provided by law. A single motion may be utilized to both approve the consent agenda listing and approve the individual items contained therein.
- d) The public shall have the right to speak to the City Council. Citizen Comments shall be limited to comments addressed to the Council and the public shall not engage in debate with the members of the Council.
  - 1. Persons wishing to offer public comment shall have the right to speak under Public Participation and may speak to any item germane to the City Council or public concerns, including but not limited to items listed for consideration or approval on the agenda. Public Participation shall also be utilized for persons wishing to speak to an item listed on the consent agenda, or to any topic not listed as an item for separate action. Persons wishing to comment under Public Participation shall submit a Speaker Request Form prior to the start of the meeting. In addition, persons wishing to offer public comment shall have the right to speak at the time of presentation of any item for separate action. Persons wishing to so comment shall provide a Speaker Request Form prior to presentation of the item in question and be afforded the opportunity to comment after a motion is made and prior to staff presentation. No person providing public comment shall be permitted to address any individual item more than once during the meeting (e.g., a person cannot address an item for separate action under Public Participation and at time of presentation of the item).

2. In the case of any agenda item presented to the Council for consideration or approval, any person who has a unique, direct, and personal interest or standing relative to such item (e.g., an applicant for a license or a petitioner for a rezoning) may also request to be recognized to speak at the time that the item is presented. Such person shall provide their request to be recognized to the Mayor in advance of the meeting, and approval of such request shall be in the Mayor's sole discretion. If such person fails to make a request or if the request is not approved, such person may speak under Public Participation but may not be called upon to speak to the item at time of its presentation at the discretion of the Mayor.
  3. The Council shall have no obligation to respond to public comments. Public comments shall be limited to three (3) minutes per speaker, with that limitation applying per time addressing the Council (with the right to address the Council only one time per agenda item or topic). Speaker Request Forms shall be completed by each member of the public wishing to speak to the City Council and submitted to the City Clerk before the time at which their comment is permitted under these regulations.
  4. Where public comment is provided as a component of a public hearing required by applicable law, the three-minute speaking limitation shall not be enforced during the public hearing, but the presiding officer at the public hearing shall have the ability to limit duplicative, cumulative or irrelevant testimony. Testimony received at a public hearing must be limited in scope to matters germane to the conduct of that public hearing. Persons who engage in violations of these regulations shall be asked to conform to the regulations or discontinue their comments and, failing such remedial action, may be removed from a meeting.
  5. The provisions of this subsection (d) shall be read to apply to City Council meetings of the City of DeKalb, and also to meetings of all public committees and subsidiary public bodies of the City Council or City of DeKalb including but not limited to the Planning and Zoning Commission (and in such instances, references to the City Council shall be deemed to refer to the subsidiary body). The adoption of this subsection (d) shall be deemed to expressly constitute the adoption of these rules as rules binding upon the conduct of any meeting of a public body of the City or City Council. Any agenda of any such public body shall be deemed, by the adoption of this subsection (d), to provide an opportunity for public comment in accordance with these regulations, whether or not such opportunity is expressly designated via the public body's meeting agenda. Persons seeking the opportunity to provide public comment shall notify the clerk or presiding officer at the meeting at which they seek to comment.
- e) There shall be a second reading of all ordinances at the next Regular meeting following the first reading. The requirements of this subsection may be waived by the affirmative vote of two-thirds (2/3) of the members of the City Council present at the meeting as to any particular ordinance. The City Council may waive second reading and approve an item by virtue of a single motion and vote.

## **2.05 SPECIAL MEETINGS.**

- a) Special meetings of the Council may be called at any time by the Mayor, or by any three (3) Aldermen, of which a Special meeting notice in writing shall be given to each Alderman who has not joined in calling such meeting. Such notice shall be issued by the City Manager or designee thereof. Notice of Special meetings shall be provided to each member of City Council not less than forty-eight (48) hours prior to the time of the meeting and shall be posted in accordance



with State Statutes. Special meetings may not be called on legal holidays provided for in 205 ILCS 630/17.

- b) Discussion, Planning and Vision Meetings: In addition to all other meetings contemplated herein, the City Council shall conduct one or more special meetings annually for the purpose of discussion, planning and visioning. One or more of the meetings may be conducted as a City Council retreat, if acceptable to the City Council. Such meetings shall be conducted pursuant to the Open Meetings Act. The Council shall determine the date and time of such meeting(s), and the City Manager shall prepare an agenda for the same. No votes other than procedural votes (e.g., approval of agenda, adjournment) shall be taken at such meetings, and no other action items shall be voted upon or approved.

#### **2.06 DELETED.**

#### **2.07 DELETED.**

#### **2.08 DELETED.**

#### **2.09 AGENDA.**

- a) Any two (2) or more City Council members desiring that a matter be placed on a Regular meeting agenda for consideration by the City Council shall advise the City Manager not later than 12:00 Noon on the Monday preceding a Council meeting. They shall supply the City Manager with a copy of all relevant materials to be considered by the City Council. The City Manager shall include any such matter as a consideration item on the requested agenda.
- b) Any person desiring that a matter be placed on a Regular meeting agenda for consideration by the City Council, shall file a written request with the City Manager along with a copy of all accompanying materials, not later than 12:00 Noon on the Monday preceding a Council meeting. Inclusion of any such matter on the agenda shall be at the discretion of the City Manager. Placement of matters on the Consent Agenda shall be at the discretion of the City Manager. The Agenda shall be prepared and released by 7:00 p.m. on the Thursday preceding the Regular meeting.

#### **2.10 ORDINANCE AND RESOLUTION PROCEDURE.**

- a) All proposed ordinances and resolutions shall be in written form and distributed to members of the City Council prior to the meeting being called to order.
- b) All ordinances and resolutions shall be read by title only unless the full reading is requested by one of the members of the City Council. The Mayor shall not be required to read the entirety of an item title, provided that the alphanumeric listing from the agenda is utilized along with a reasonable description of the item in question.

#### **2.11 MATTERS OF PUBLIC CONCERN.**

Nothing in the provisions of this Chapter shall be construed to be a limitation on the right of any member of the Council to bring to the attention of the Council at any meeting of the Council, at the time for Council reports, any matter of public concern.

## 2.12 RULES OF ORDER AND PROCEDURE.

- a) The following Rules of order and procedure shall govern the deliberations and meetings of the City Council and the committees thereof.
- b) A majority of the corporate authorities shall constitute a quorum to do business. The Mayor is to be counted.
- c) The Mayor shall take the chair promptly at the hour set for any meeting and call the Council to order, and if a quorum of the corporate authorities is not present, those members present shall adjourn to some time to be fixed by the members present, and it shall be the duty of the City Council's recording secretary ~~lerk~~ to notify those members not present of the time to which such adjournment is had.
- d) The Mayor shall be the presiding officer at all meetings of the Council.
- e) In the absence of the Mayor, the City Council's recording secretary ~~Clerk~~ shall call the Council to order. A majority vote of the Aldermen present shall select an Alderman to serve as Temporary Chair of the meeting whoshall have only the power of a presiding officer and a right to vote in the capacity as Alderman.
- f) During the absence of the Mayor because of an incapacity to perform duties, the Council shall elect one of its members Mayor Pro Tem of the Council and said person shall act as presiding officer of the Council. The Mayor Pro Tem shall, during the absence or disability, perform the duties and possess all of the rights and powers of the Mayor, but shall vote only as an Alderman and not as an Alderman and as Mayor.
- g) Duties of the Presiding Officer.
  - 1. The presiding officer shall preserve order and decorum and may speak to points of order in preference to other members and shall decide all questions of order subject to appeal. If the presiding officer refuses to allow the Aldermen to exercise their right to appeal a decision of the Chair, the Aldermen may consider and pass upon the matter in spite of the Chair's failure to grant them an appeal.
- h) Duties of Members.
  - 1. While the presiding officer is putting the question, no member shall walk out of the room where the meeting is being held.
  - 2. Every member, previous to speaking, making a motion or seconding the same, shall address themselves to the presiding officer and say: "Mayor", and shall not proceed with their remarks until recognized and named by the Chair. They shall confine themselves to the question under debate avoiding personalities and refraining from impugning the motives of any other member's argument or vote.
  - 3. When two or more members address the Chair at the same time, the presiding officer shall name the member who is first to speak.
  - 4. While a member is speaking, no member shall hold any private discussion, nor pass between the speaker and the Chair.



5. The Aldermen may, by two-thirds (2/3) vote, expel an Alderman for unduly disruptive conduct. Such Alderman may not be expelled a second time for the same offense.
6. No member shall eat, smoke or drink any alcoholic beverage during a Council meeting.
7. If a member has a direct financial interest or other interest that creates a legally recognizable conflict of interests, the member shall leave the dais prior to consideration of the item. The member shall not be counted towards a quorum for that portion of the meeting and shall not be reflected in any form of voting that is conducted with regard to that portion of the meeting. The member may address the Council during that portion of the meeting as a member of the public but shall expressly indicate that his comments are limited to being a member of the public (and shall be subject to all rules applicable to public comments). Following the conclusion of that item of business, the member shall be entitled to rejoin the dais and be included in the quorum and any further discussion or action items.
  - i) Debate. No member shall speak more than once on the same question until all other aldermen shall have had an opportunity to speak; provided, however, that the proponent of the matter under consideration shall have the right to open and close debate. No member shall speak longer than five (5) minutes at any one time, except by consent of the Council; and in closing debate on any question, as above provided, the speaker shall be limited to five (5) minutes, except by special consent of the Council.
  - j) Appeals from Decisions of the Chair. Any member may appeal to the Council from a ruling of the Chair, and if the appeal is seconded, the member making the appeal may briefly state his reason for the same and the Chair may briefly explain its ruling; but there shall be no debate on the appeal and no other member shall participate in the discussion. The Chair shall then put the question, "Shall the decision of the Chair be sustained?" If a majority of the members present vote "No", the decision of the Chair shall be overruled; otherwise, it shall be sustained.
  - k) Making, Seconding and Withdrawing Motions: Any Alderman present may make a motion at an appropriate time by affirmatively and expressly indicating the intent to make a motion. In circumstances where the Mayor has requested a motion in accordance with the stated motion or approval proposed by an agenda item, a motion shall be made by stating "so moved." In circumstances where alternate language is proposed for a motion, the motion shall be made by stating, "I move that," followed by the text of the motion. A second to any motion shall be made only by saying "second" or, "I second", and speaking to a motion shall not constitute a second. If the maker of the motion desires to withdraw a motion, he or she may do so. The seconder of the motion may either withdraw the second or may him or herself renew the motion and seek a new second.
  - l) Division of Questions. If any question under consideration contains several distinct propositions, the Council, by a majority vote of the members present, may divide such question.
  - m) Record of Motions. In all cases where a resolution or motion is entered in the journal, the name of the member moving and seconding the same shall be entered.
  - n) Taking and Entering the Votes; Explanation of Votes. The "yeas" and "nays" upon any question shall be taken and entered in the journal. When the Council's recording secretary has commenced to call the roll of the council for the taking of a vote by "yeas" and "nays", all debate on the question before the Council shall be deemed concluded and during the taking of the vote, a member shall be

permitted to briefly explain said member's ~~his or her~~ vote and shall respond to the calling of said member's ~~his~~ name ~~by the Clerk~~ by answering "yea" or "nay", as the case may be.

- o) Announcement and Changes of Votes. The result of all votes by "yeas" and "nays" shall be announced by the Council's recording secretary ~~lerk~~, and no vote shall be changed after the Chair has declared the passage or failure of the item voted upon.
- p) Reconsideration.
  - 1. A vote or question may be reconsidered at any time during the same meeting, or at the first Regular meeting held thereafter. A motion for reconsideration, once having been made and decided in the negative, shall not be renewed, nor shall a motion to reconsider be reconsidered. No motion to reconsider the approval or denial of the recommendation of an advisory body required to hold public hearings shall be entertained except at the same meeting at which the original action was taken or after the matter has been referred to the advisory body for a further hearing and recommendation.
  - 2. A motion to reconsider must be made by a member who voted on the prevailing side of the question to be reconsidered, unless otherwise provided by law. Any member may second the motion.
  - 3. When a motion for reconsideration is voted upon, a roll-call vote on said motion shall be taken. Approval of a motion for reconsideration shall only require a simple majority of City Council, regardless of the vote required to change the underlying action. The vote on a motion for reconsideration shall only determine whether the item or action in question should be reconsidered and shall not redetermine the item or action. If a motion for reconsideration fails, the underlying action shall be unchanged. If the motion for reconsideration passes, the underlying item or action shall be reconsidered in a separate vote. Passage or approval of the item or action shall require the affirmative vote originally required for such action (e.g., a vote that originally required a majority shall require a majority, a vote that originally required a supermajority shall require a supermajority).
- q) The Minutes. The Clerk and the Council's recording secretary shall keep the minutes of the Council meetings; provided, however, that the Council shall approve one (1) draft of the minutes for each Council meeting. The minutes of each Council meeting shall be approved not later than 30 days after the meeting or at the Council's second subsequent Regular meeting, whichever is later. The ~~Clerk's~~ draft of the minutes may be amended at any time to correctly reflect the view of the legislative body as to the events which occurred. The Clerk and the Council's recording secretary shall be responsible for recording and keeping record of all meetings of Council where required by law. In ~~the absence of~~ addition to ~~-the Clerk, the Mayor~~ Council may appoint, with the advice and consent of the Council, any City officer to serve as the Council's recording secretary ~~-to assume said duties~~.
- r) Style of Ordinances. The style of all ordinances shall be: "BE IT ORDAINED BY THE CITY COUNCIL of...", as is provided by Statutes.
- s) "Aye" or "Nay" Vote. The ayes and nays shall be taken upon the passage of all ordinances and on all propositions to create any liability against the City, or for the expenditure or appropriation of its money, and in all other cases at the request of any member of the Council; and such vote shall be entered in the minutes, as is provided by Statutes.
- t) Approval or Veto. All resolutions and motions (1) which create any liability against the City, or

(2) which provide for the expenditure or appropriation of its money, or (3) to sell any City property, and all ordinances passed by the Council shall be deposited with the City Clerk and the Council's recording secretary. If the Mayor approves of them, the Mayor shall sign them. Those of which the Mayor disapproves the Mayor shall return to the Council with the Mayor's written objections, at the next Regular meeting of the Council occurring not less than five (5) days after their passage. The Mayor may disapprove of any one or more sums appropriated in any ordinance, resolution or motion making an appropriation, and, if so, the remainder shall be effective. However, the Mayor may disapprove entirely of an ordinance, resolution or motion making an appropriation. If the Mayor fails to return any ordinance or any specified resolution or motion with the Mayor's written objections, within the designated time, it shall become effective despite the absence of the Mayor's signature.

- u) Every resolution and motion specified above, and every ordinance, which is returned to the Council by the Mayor shall be reconsidered by the Council. If, after such reconsideration, two-thirds (2/3) of all the Aldermen then holding office on the City Council agree to pass an ordinance, resolution or motion, notwithstanding the Mayor's refusal to approve it, then it shall be effective. The vote on the question of passage over the Mayor's veto shall be by ayes and nays and shall be recorded in the journal.
- v) Record of Ordinances. The Clerk and the Council's recording secretary shall keep a record of all ordinances passed in an ordinancebook for such purpose.
- w) Publication. All ordinances imposing any penalty for a violation thereof or making any appropriation shall be published as required by Statutes, either in a newspaper or in pamphlet form, in which case, the ordinance in its pamphlet form shall be displayed for a reasonable period in a public place in the City Hall.
- x) Time of Taking Effect. No ordinance which must be published to comply with the foregoing section shall go into effect until ten (10) days after it is so published unless a statement of the urgency of the ordinance is contained in it and it achieves passage by a two-thirds (2/3) vote of the members of the corporate authorities then holding office. In all other cases, the ordinances shall go into effect upon the passage thereof, as provided by Statutes, even though the operation of the ordinance may not take effect until a later date.
- y) Neither the Mayor, nor any Council member, employee, officer, or any member of a committee, commission, ~~or~~ or the City shall disclose any information which was discussed or presented at any meeting which was closed to the public in accordance with the Open Meetings Act, 5 ILCS 120/1, et seq., unless one of the following conditions exist:
  - 1. That the disclosure of such information occurred after the public body determined that the minutes or portions thereof no longer required confidential treatment and were available for public inspection.
  - 2. That the disclosure of such information was necessarily incident to the performance of the person's job or duties.
  - 3. That the disclosure of such information was made to the State's Attorney in the good faith belief that provisions of the Open Meetings Act were not complied with.
- z) Adoption of Robert's "Rules of Order Revised". The rules of parliamentary practice comprised in the latest published edition of Robert's "Rules of Order Revised" shall govern the Council in all cases to which they are applicable. Robert's Rules are adopted pursuant to the City's home rule

authority and shall govern except where they are expressly superseded by the Statutes or law of the State. The provisions outlined in this Chapter 2 shall supersede Robert's Rules where any inconsistency exists.

- aa) Temporary Suspension of Rules; Amendment of Rules. These rules contained in this Section, "Rules of Order and Procedure," may be temporarily suspended by a vote of two-thirds (2/3) of all the Aldermen entitled by law to be elected, and shall not be repealed, altered or amended, unless by concurrence of two-thirds of all the Aldermen entitled by law to be elected.
- ab) Authority of the Chair: The chair of any meeting shall be authorized to suspend comments by or to interrupt any speaker who engages in any disruptive, insulting or unlawful behavior, and to suspend all or any part of the Rules for Public Comment, to the extent permitted by law. The chair shall also be permitted to exercise any authority permitted under other sections of the City Code, the Illinois Municipal Code, or Roberts Rules of Order. The chair shall be permitted to promulgate other rules as deemed necessary to prevent duplicative comments or to ensure that comments received relate to public business of the City, or the topic(s) or issue(s) then under discussion.

## **2.13 MATTERS REQUIRING VOTE GREATER THAN MAJORITY.**

- a) None of the following powers shall be exercised by an ordinance or resolution of the City Council unless passed by a vote of three-fourths (3/4) of the corporate authorities of the City of DeKalb then holding office:
  - 1. The vacating of any street or alley;
  - 2. The conveying, leasing, mortgaging, or encumbering in any way of any real estate. However, the corporate authorities shall have the power to authorize any municipal officer to make leases for terms not exceeding two years by majority vote. This provision shall not apply to any real estate acquired by the City of DeKalb as the Local Public Agency pursuant to the Tax Increment Allocation Redevelopment Act 65 ILCS 5/11-74-4-1. The sale, lease, mortgaging or encumbering of real property may be done without advertising for bids.
- b) This Section, "Matters Requiring Vote Greater than Majority," shall not be amended except by a vote of three-fourths of the corporate authorities of the City of DeKalb then holding office.

## **2.14 CITY COUNCIL EXPENSES.**

- a) No advances or reimbursements for expenses to the Mayor or a member of the City Council for activities not previously and specifically authorized in the annual budget or by other City Council action may be approved by the City Manager or the Comptroller/Treasurer without authorization of the City Council. City Council members who receive City Council authorization to incur travel and conference expenses shall consult with the City Manager regarding allowable expenses and proper procedures prior to incurring any expense. No expense shall be reimbursed except in accordance with then-applicable City policies and procedures, as well as applicable state or federal law.
- b) The Mayor and City Council members shall present an expenses claim against the City and file receipts and/or a complete itemized statement with the Finance Director for any money expended by such member. The Mayor and/or City Council members receiving travel advances shall, within five (5) working days of the completion of their travel, file receipts and/or a complete itemized statement with the Comptroller/Treasurer, for all monies expended. If a receipt for any

expenditure is not included, an explanation as to why the receipt is not included shall be provided with the statement. All monies that are not expended or that are not otherwise accounted for under the provisions of this Section shall be returned along with the itemized statement.

#### **2.15 ELECTED OFFICIALS SALARY REVIEW.**

The City Council shall review the salary for the Mayor and City Council at the last regularly scheduled Council meeting in June, preceding a general municipal election.

**EXHIBIT B**  
**(The Section 3.14 Amendment)**



**CHAPTER 3**  
**CITY ADMINISTRATION**

**Latest Revision:** October 14, 2019 (Ordinance 2019-059)

**Sections:**

- 3.01 ELECTIONS AND REGISTRATION OF VOTERS.**
- 3.02 PERSONS ENTITLED TO VOTE.**
- 3.02-5 REDISTRICTING THE CITY.**
- 3.03 GENERAL ELECTIONS.**
- 3.04 WARDS.**
- 3.05 MANAGERIAL FORM OF GOVERNMENT.**
- 3.06 MAYOR.**
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- 3.41 DELETED.**
- 3.42 DELETED.**
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- 3.44 DELETED.**
- 3.45 DELETED.**
- 3.46 RESIDENCY REQUIREMENTS FOR EMPLOYEES AND OFFICERS.**

**SECTION 1.** Deleted. (2016-029)

**SECTION 2.** Deleted. (2016-029)

### **3.01 ELECTIONS AND REGISTRATION OF VOTERS.**

- a) The City of DeKalb has not adopted and is not operating under the provisions of Articles 6, 14 and 18 of the Election Code of the Illinois Compiled Statutes, Chapter 10.
- b) Pursuant to Article 4 of the Election Code of the State of Illinois, this city adopts the system of registration of voters maintained by the County Clerk of DeKalb County and makes the same applicable to all elections held in the city.
- c) Article 4 of the Election Code of the State of Illinois (10 ILCS 5/4) be, and the same is hereby adopted and made applicable to all elections held in the City of DeKalb for the nomination at a primary and the election of officers of the city.
- d) A certified copy of this section shall be filed in the office of the County Clerk of DeKalb County by the City Clerk.

### **3.02 PERSONS ENTITLED TO VOTE.**

All persons who are entitled to vote at any general election for state officers, and who have a permanent abode within the city may vote therein at any election for city officers.

#### **3.02-5 REDISTRICTING THE CITY.**

The wards of the City of DeKalb as heretofore established and as may hereafter be established shall be reapportioned according to population. In the formation of the reapportioned wards the population of each shall be as nearly equal as possible, and the wards shall be of as compact and contiguous territory, as possible. The method for reapportionment shall be as follows:

That whenever pursuant to Article I, Section 2 of the United States Constitution, there shall be taken an actual Enumeration within every 10 years in such manner as the Congress of the United States shall by law direct, the City Council shall, by using the census tracts derived from said Enumeration, apportion the population among the wards accordingly. Said reapportionment of population shall be completed within two years following the

Federal decennial year and no later than October 1 of the current year (1972) and by that day and month every subsequent ten years hereafter.

### **3.03 GENERAL ELECTIONS.**

A general election for city officers shall be held on the first Tuesday of April of every odd numbered years. (1982-080)

### **3.04 WARDS.**

The wards of the City of DeKalb as designated in the “Official Ward Map”, a copy of which is on file in the Office of the City Clerk, are hereby established and shall be the election districts for all municipal elections hereafter held in the City of DeKalb. Said Official Ward Map shall be periodically revised as new territory is annexed to the City. An official copy of said map shall be on display and available in the office of the City Clerk, who shall also be responsible for providing a copy to the DeKalb County Clerk, as the Consolidated Elections Official, at least sixty (60) days prior to each municipal election date. (1998-028)

### **3.05 MANAGERIAL FORM OF GOVERNMENT.**

The City shall be governed under the managerial form of municipal government under the provisions of the Illinois Municipal Code, Article 5.

### **3.06 MAYOR.**

- a) Oath. The Mayor shall, before entering upon the duties of office, take and subscribe to the oath prescribed by law for city officers. (2014-024; 2015-016)
- b) Tax Sales. The Mayor, or designee, is hereby authorized to attend tax sales in the county and bid there at, in behalf of the City, on any real or personal property offered for sale, to enforce the collection of any tax or special assessment in which the City is interested; and may purchase at any such sale in behalf of the City. (1997-095)
- c) Part-time Position. The Mayor shall be considered on a part-time basis in carrying out the duties of the office of Mayor. (1980-054)
- d) Power to Appoint Members of Boards, Commissions and Committees. The Mayor shall appoint all members of boards, commissions, committees of the City of DeKalb, with the advice and consent of the City Council, except as otherwise provided in this Code. (1991-073, 1997-095)
- e) Power to Remove Members of Boards, Commissions and Committees. The Mayor, with a three-fourths majority vote of the Corporate Authorities then holding office, may remove a member of any board, commission or committee, at any regular Council meeting.

- f) **Power to Approve Intergovernmental Agreements.** In the event that the Mayor determines that circumstances relating to a proposed intergovernmental agreement are such that the proposed agreement requires action that cannot be delayed until the next available agenda for a regularly scheduled meeting of the City Council of the City of DeKalb, the Mayor or a designee thereof shall be authorized to sign, approve and enter into such agreement on behalf of the City, provided that: 1) the agreement has a term that is equal to or shorter than the remaining then-current term of office of the Mayor; 2) the agreement does not involve the expenditure of funds in excess of the then-current City Manager’s spending authority; 3) the agreement does not involve the expenditure of funds in excess of the amounts budgeted, appropriated and otherwise available for the intended purpose; and, 4) the proposed agreement is an intergovernmental agreement pursuant to Illinois law, with another public entity or association or coalition thereof. For purposes of this Agreement, use of budgeted City staff time and/or otherwise budgeted City resources or consumables (e.g. use of previously authorized and purchased salt to aid another unit of local government during a snow emergency), shall not be counted towards the value of the expenditure at issue. (2012-054, 2014-024)

### **3.07 CITY MANAGER.**

- a) **Creation of Office.** There is hereby created the office of City Manager, an administrative office of the City of DeKalb.
- b) **Appointment and Removal.** The City Manager shall be appointed by the Mayor and Council voting jointly. The City Manager shall serve and hold office for a term of office specified by virtue of an employment agreement. The City Manager shall be entitled to the benefits provided in this Chapter 3, unless specific benefits are approved or precluded by the City Council in an employment agreement. The City Council may approve an employment agreement with the City Manager that exceeds the term of the Mayor holding office at the time the agreement is executed. The City Manager shall be appointed without regard to political or religious beliefs and shall be chosen solely on the basis of executive and administrative qualifications, with special reference to training and actual experience in, and knowledge of, accepted practice in respect to the duties of the office as hereinafter set forth. At the time of appointment, the City Manager need not be a resident of the City but shall become a resident after taking office and shall reside in the City during the remainder of tenure. (2014-002)

The City Manager may be removed pursuant to the terms of the then-current City Manager employment agreement. (2014-002)

During the absence or disability for any reason of the City Manager, the Assistant City Manager shall perform the duties of the position of City Manager, until such time as the City Council shall appoint an alternate. During any short-term or planned absence of the City Manager, the City Manager shall appoint an interim manager from among the City’s Department Heads or their subordinates. Any such Acting City Manager shall have the full authority of the City Manager during their term of service as Acting City Manager. (2014-002, 2014-024)

- c) **Bond.** The City Manager shall execute a bond in the amount of \$1,000 conditioned upon the faithful performance of duties, with a surety company as surety thereon. Such bond shall be approved and filed with the City and the cost thereof shall be borne by the City. (2004-004, 2015-016)
- d) **Interest in Contracts.** The City Manager shall not be interested directly or indirectly in any contract, work or business of the City, or in the sale of any article to the City, or in the purchase of any property belonging to the City, or sold for taxes or assessments, or sold by virtue of legal process at the suit of the City. (1977-038, 2004-004)

### **3.08 POWERS AND DUTIES OF THE CITY MANAGER.**

The City Manager shall be the chief administrative officer of the city government with powers and duties as follows: (2014-024)

- a) The City Manager shall supervise and be responsible to the Council for the proper management and efficient operation of all City Departments, except to the extent that jurisdiction over the functions and employees of said departments and offices are expressly vested in others by statute. (1997-095, 2004-046, 2005-006, 2005-076, 2014-024)
- b) The City Manager shall cooperate with the City Clerk, and other elected officials and shall render to them all such assistance as possible in the performance of their respective duties. The City Manager shall cooperate with the Plan Commission, the Board of Appeals, the Library Board, the Board of Fire and Police Commissioners and other administrative or quasi-judicial boards and commissions which may be appointed from time to time by the Mayor or Council. (2004-046, 2014-024)
- c) The City Manager shall appoint and remove all officers, department heads and employees of the City; and that employees of the library shall be appointed by the Library Board, and policemen and firemen shall be appointed by the Board of Fire and Police Commissioners, taking into consideration the recommendation of the Manager. (1997-095, 2004-046, 2014-024)
- d) The City Manager shall be the chief law enforcement officer of the city and shall see that all laws and ordinances of the City of DeKalb and State of Illinois are enforced. (2014-024)
- e) The City Manager shall prepare and present to the Council at the end of each fiscal year an annual budget indicating an estimate of income and expenditure for the ensuing year for the consideration of the Council. The City Manager shall also be responsible for the preparation of the annual appropriation and tax levy ordinances. The City Manager shall have supervision over the accounting work of the city and shall cause to be kept a full and complete book of accounts showing the exact condition of the financial affairs of the city to the extent that such supervision is not vested in the Treasurer by the Illinois Compiled Statutes. (2014-024)



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- f) The City Manager shall keep current inventories showing all the property and equipment of the city and be responsible for its care and custody. (2014-024)
- g) The City Manager shall grant all licenses except as otherwise provided by Illinois Compiled Statutes or by the DeKalb Municipal Code. All licenses issued by the City Manager shall comply in all respect to ordinances of the City of DeKalb and Illinois Compiled Statutes and shall be issued only to such persons as shall be deemed qualified to be licensed. (2004-046, 2014-024)
- h) The City Manager shall attend all the regular and special meetings of the Council unless excused by the Council. The City Manager or a staff liaison shall attend all regular and special meetings of the boards or commissions now in effect or which may be appointed in the future. (2014-024)
- i) The City Manager shall render a monthly report to the Council covering the work of each department or operation of the City. The City Manager shall also, as soon as possible, after the end of each fiscal year of the city prepare a written report summarizing the work of such fiscal year. (2014-024)
- j) The City Manager shall cause to be rendered, in cooperation with the Treasurer, monthly statements showing the exact financial condition of the city at the end of the preceding month and a financial statement for each fiscal year. (2014-024)
- k) The City Manager shall from time to time make recommendations to the Council relative to the adoption of such ordinances and resolutions as may be deemed necessary or expedient in the best interest of the City of DeKalb together with such special reports as he may deem advisable or as the Council requests. (2014-024)
- l) The City Manager shall devote all time to the discharge of duties during reasonable hours. (2014-024)
- m) The City Manager shall have the authority to dispose, sell or give away personal property of the City of DeKalb pursuant to City Code Section 54.16. The City Manager shall keep records of all dispositions of personal property accomplished under this section and shall annually report such dispositions to the City Council. (1989-054, 2014-024)
- n) The City Manager shall perform such other duties as may be required by the Council not inconsistent with the ordinances of the City of DeKalb or Illinois Compiled Statutes. In the event of any vacancy in any Department Head position, the City Manager shall have the authority to serve as Acting Department Head, or to appoint a City Employee for said purpose. Any authority of any Department Head of the City of DeKalb or subordinate employee thereof is derived from the authority of the City Manager and is subject to the oversight and supervision of the City Manager. (2014-024)
- o) The City Manager shall have the authority to waive otherwise applicable City fees,



including but not limited to building permit fees, plan review fees, application fees, or other fees whatsoever, up to the limit of the City Manager’s spending authority, for projects or initiatives of other units of government, projects on City property or in City-owned buildings, or projects relating to the Egyptian Theatre, provided that any expenditures incurred are within the then-current budget. Further, the City Manager may waive any otherwise applicable fee for any City project, without regard to cost. The City Manager shall make a written report to the City Council following any such waiver. (2014-039)

### **3.08-5 ASSISTANT CITY MANAGER.**

There is hereby created the position of Assistant City Manager, who shall be appointed and removed at the discretion of the City Manager. The Assistant City Manager shall have those duties and responsibilities as assigned by the City Manager, including, but not limited to, serving as Acting City Manager in the City Manager's absence, coordinating collective bargaining activities, assisting the City Manager with general administrative matters, providing professional assistance to various City boards and commissions and coordinating various special projects. (1987-063, 2004-046, 2005-006, 2014-024)

### **3.09 POWERS OF THE MAYOR AND COUNCIL.**

The powers of the Council shall be purely legislative. However, all functions, powers, and duties conferred or imposed upon the City Manager shall be subject to the superior right and power of the Mayor and Council to govern the city. All acts of the City Manager performed pursuant to this chapter shall, unless otherwise expressly provided be final and conclusive unless and until superseded by the action of the Council.

### **3.10 SCOPE OF DEPARTMENTS.**

The scope, duties, organization, and functions of administrative city departments and divisions thereof shall be determined by the City Manager taking into consideration the recommendations of the affected department head, consistent with generally accepted management principles, methods and procedures. (2014-024)

### **3.11 POWERS AND DUTIES OF APPOINTIVE OFFICERS AND EMPLOYEES.**

All appointive officers and employees shall have such powers and duties as determined by the Illinois Compiled Statutes or as established by ordinance. (1997-095)

### **3.12 DELETED (2016-029)**

### **3.13 AUDIT.**

At the close of each fiscal year an independent audit of all city accounts shall be conducted independently of the City Manager, Assistant City Manager and Finance Director. Such audit shall be made by Certified Public Accountants, selected by the Council, licensed by

the State of Illinois, and fully experienced in municipal accounting. Copies of such audit shall be made available for public inspection and filed with the City Clerk. (2005-06, 2014-024)

**3.14 CITY CLERK.** (2019-059)

- a) Oath. The City Clerk and the 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 part-time 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 resolutions, ordinances and other actions approved by the City Council in said minutes; overseeing the review, approval and release of all Executive Session minutes; keeping office hours open for the transaction of the City's business; keeping one of the City's corporate seals; affixing the City's corporate seal to a variety of documents; receiving and tracking legal notices sent to the City; administering oaths; overseeing the election process every two years; and notifying all persons elected to offices of the election within five (5) days after the result of the election is declared.
- c) Duties of the Executive Assistant. The full-time duties of the Executive Assistant shall include, but are not limited to: Acting as the Recording Secretary to the City Council by taking and preparing minutes of the City Council's meetings~~proceedings~~; faithfully recording the results of resolutions, ordinances and other actions approved by the City Council in said minutes and journal; overseeing the review, approval and release of all Executive Session minutes; attesting the Mayor's signature on resolutions, ordinances, agreements and other documents approved by the City Council; recording copies of City ordinances, resolutions and other documents as needed with the County Clerk's Office; certifying copies of City ordinances, resolutions and other documents; codifying the City's Municipal Code; keeping one of the City's corporate seals; affixing the City's corporate seal to a variety of documents; processing and finalizing new and renewal licenses and permits; 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; posting approved City Council minutes, and approved and released Executive Session minutes to the City's website; 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~~.

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The Executive Assistant is a Chapter 3 non-bargaining unit employee who 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,~~ as if done by the City Clerk personally.

- 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 and Executive Assistant shall at all times allow each other ~~the Executive Assistant~~ access to the City's corporate seals and the journal.
- e) Documents to Successor. The City Clerk and Executive Assistant 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 their ~~Clerk's~~ custody.
- f) The City Manager has the authority to appoint and remove the Executive Assistant.
- g) 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 additional compensation or benefits.

**3.15 COMMUNITY DEVELOPMENT.**

- a) There is hereby created the position of Community Development Director, who shall be appointed and removed at the discretion of the City Manager. The Community Development Director shall have those duties and responsibilities as assigned by the City Manager. Planning and Economic Development within the City of DeKalb shall be under the direction and supervision of the Community Development Director. The duties of other City employees under the supervision of the Community Development Director who have responsibilities relating to Planning and Economic Development shall be as assigned by the Community Development Director from time to time. (2014-024)
- b) Duties of the Community Development Director. The Community Development Director shall devote all productive time to the duties of the City at all reasonable hours and in particular shall: (2014-024)
  - 1. Exercise general supervisory responsibility for the enforcement of adopted developmental regulations, including, but not limited to: zoning, subdivision and planning regulations of the City of DeKalb.
  - 2. Provide for and maintain a Comprehensive Plan and a Unified Development Ordinance for the City of DeKalb.
  - 3. Coordinate the current and long-term planning activities for the City of DeKalb.
  - 4. Attend, or provide for a designee to attend, all regular and special meetings of the Plan Commission and any other boards or commissions as may be assigned by the

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City Manager, providing staff assistance to all such boards and commissions.

5. Provide for programs, activities and services to facilitate neighborhood improvement or preservation, address housing needs and facilitate orderly community growth and development.
  6. Perform other duties and responsibilities as may be required by the City Manager. (2014-024)
  7. Whenever, throughout this Municipal Code, the title of Chief Planning Official, Building Official, Planning and Economic Development Official, or City Planner is used, such title shall mean the Community Development Director. (2014-024)
  8. The Community Development Director shall coordinate, supervise and oversee the economic development activities of the City and shall coordinate with other local entities involved in economic development within the City. (2014-024)
  9. The Community Development Director may delegate all or some of the duties outlined above to other City employees within the Community Development Department from time to time. (2014-024)
- c) Additional duties of the community Development Director shall include coordinating the building issues with regard to private and public property within the City. The Director shall:
1. Exercise general supervisory responsibility for the enforcement of adopted codes including, but not limited to building, plumbing, electrical, mechanical, fire prevention, existing structures, handicap accessibility, traffic control, drainage and nuisance regulation of the City. (2014-024)
  2. Provide for the inspections of new and existing structures as required by the Municipal Code. (2014-024)
  3. Attend, or provide for a designee to attend, all regular and special meetings of the Zoning Board of Appeals, Building Board of Appeals, Plumbing Board of Appeals, Electrical Commission and any other boards or commissions as may be assigned by the City Manager, and provide for staff assistance to all such boards and commissions. (2014-024)

**3.16 DELETED** (2016-029)

**3.17 CITY ATTORNEY.** (2014-002)

The City shall obtain legal services by virtue of a written agreement with an attorney licensed to practice law in the State of Illinois. The City Attorney shall undertake all actions directed or authorized by the Mayor and City Council and shall work under the supervision

and direction of the Mayor and City Council. The City Attorney shall work cooperatively with all City officers, employees and departments. The City Attorney shall prepare such contracts, ordinances or other documents as may be required by the City from time to time. The City Attorney shall also serve as prosecutor of any violations of City Code or Ordinance.

### **3.18 DEPARTMENT OF PUBLIC WORKS.**

- a) Establishment. There is hereby created the Department of Public Works for the City. This department shall consist of the Director of Public Works and such other officers and employees as may be provided by the City Council. (2004-046)
- b) Director of Public Works. There is hereby created the office of Director of Public Works, who shall be appointed and removed at the discretion of the City Manager. The City Manager shall serve as ex-officio Director of Public Works until this office is filled by appointment. The director shall have control and supervision over all officers and employees assigned to the department subject to the control of the City Manager. (2004-046)
- c) Functions. The Director of Public Works shall have charge of and supervision over all public property owned by the City, including all streets, sidewalks, alleys, public ways, parks, parkways, municipal buildings and all other property of the City not specifically assigned to some other officer. (2004-046)
- d) The Director of Public Works shall have charge of, and be responsible for the care, maintenance and operation of the City water distribution system; storm water and sanitary sewer systems owned by the City and all street and sidewalk drainage. (2004-046, 2014-024)
- e) The Director of Public Works shall have charge of the street lighting system, and shall be responsible for the maintenance, repair and extension thereof. (2004-046, 2014-024)
- f) All physical properties of the City, including the water distribution, parks, playgrounds, and all municipal utilities not assigned to some other department or officer are assigned to the Director of Public Works. (2004-046)
- g) All construction, repair or extension of any, building, sewer, or lighting system, water mains, and any appurtenances thereto, and all other construction, repair or maintenance work conducted by the City, shall be done by or under the supervision of the Director of Public Works unless specific direction to the contrary is made by the City Council. (2004-046)
- h) The Director of Public Works shall have charge of the agreement/contractor responsible for collection and disposal of garbage and refuse. (2004-046, 2014-024)
- i) The Director of Public Works shall have charge of and be responsible for the condition of all motor vehicles, trucks and other equipment of the City; and of all buildings or



places in which the same are housed or kept. (2004-046, 2014-024)

- j) The Director of Public Works shall have charge and custody of all physical property of the City, other than records, not assigned to some other officer or employee. Subject to the supervision of the City Manager, the Director of Public Works shall have charge of the operation of the water distribution system, the sewer system and disposal plant, and the care and maintenance of streets. (2004-046, 2014-024)
- k) The Director of Public Works shall have care and custody of all City owned buildings. (1977-039, 2004-046, 2014-024)
- l) Additional duties of the Director of Public Works shall include coordinating Environmental Pollution Control issues. The Director shall: (2005-076)
  - 1. Be responsible to the Environmental Pollution Control Commission for the day-to-day administration of environmental pollution control laws now or hereafter adopted by the City of DeKalb; and
  - 2. Investigate complaints of violations of environmental pollution control laws now or hereafter adopted by the City of DeKalb and to make inspections and observations of environmental pollution conditions; and (2014-024)
  - 3. Encourage and conduct studies, investigations and research relating to the biological, physical, chemical, engineering, and meteorological aspects of environmental pollution; and its causes, prevention, control and abatement as the Commission may deem advisable and necessary; and
  - 4. Enlist voluntary cooperation by the public, municipalities, counties, communities, and civic, technical, scientific and education societies; and
  - 5. Provide for the training of City employees in the proper investigation and reporting of complaints about any environmental pollution.
- m) The Director of Public Works shall also: (2014-024)
  - 1. Manage the activities of the department in a manner consistent with established policies and procedures pursuant to the direction of the City Manager. (2014-024)
  - 2. Prepare an annual budget for submission to the City Manager; prepare an annual report for submission to the City Manager; and prepare any other studies or reports as may be required by the City Manager. (2014-024)
  - 3. Perform other duties and responsibilities as may be required by the City Manager. (2014-024)
  - 4. Supervise all construction, repair or extension of any pavement and roadways. The



Director of Public Works shall review and recommend approval, amendments, or alterations relating to surface drainage, land alteration and erosion control, storm water control, traffic control and traffic studies, parking issues, and floodplain and wetland issues. The Director of Public Works shall have charge of and supervision over assuring conformance of activities meeting engineering standards for bridges, sidewalks, traffic signals, water facilities, parking lots, and extensions of streets, alleys, and sewers. (2004-046, 2014-024)

### **3.19 BOARD OF LOCAL IMPROVEMENTS.**

- a) There shall be a Board of Local Improvements to be composed of the Mayor and four members appointed by the Mayor with the consent of the City Council (at such times as the City has a need for such Board pursuant to applicable laws). (2014-024)
- b) In making a local improvement by special assessment, the Board of Local Improvements, the Mayor and the City Council shall follow the procedures set forth in 65 ILCS 5/9-2-1 et seq. with amendments thereto adopted prior to the adoption of this Section. Said Division 2 of Article 9 of Chapter 65 is hereby adopted by the City of DeKalb, not less than three (3) copies of said Act having been on file in the office of the City Clerk for not less than fifteen (15) days prior to the adoption of this ordinance. The Board of Local Improvements and the City Council shall have all the powers and duties set forth in said Statute, incorporated herein by reference. (1977-038)

### **3.20 BOARD OF FIRE AND POLICE COMMISSIONERS. (12-71)**

- a) There shall be a Board of Fire and Police Commissioners as provided by law, which shall consist of three (3) members whose terms shall be for three (3) years. Such members shall be appointed by the Mayor, with the consent of the Council.
- b) The Board of Fire and Police Commissioners shall have charge of all appointments to the Fire and Police Department, except: 1) the Chief of each department; 2) the Assistant or Deputy Chiefs; and, 3) Lieutenants or any successively higher rank in the Police Department. The Board shall conduct and hold all entrance and promotional examinations in the manner required by law. It shall also assume all other duties as provided by the Illinois Compiled Statutes.
- c) The Board of Fire and Police Commissioners shall give promotional preference to, or award credits for military or naval service to individuals seeking promotional appointments within the Fire and Police Departments in accordance with the requirements of Illinois law.
- d) The Board of Fire and Police Commissioners shall be authorized to establish Rules and Procedures for its operation, in accordance with the requirements of Illinois law, with any such Rules and Procedures requiring the approval of the City Manager and the Chiefs of the Fire and Police Departments.

**3.21 DELETED** (2016-029)

**3.22 ACTS OF AGENTS OR EMPLOYEES; LIABILITY OF LICENSEE; KNOWLEDGE.**

Every act or omission, of whatsoever nature, constituting a violation of any of the provisions of this Act by any officer, director, manager or other agent or employee of any licensee shall be deemed and held to be the act of such employer and licensee, and said employer or licensee shall be punishable in the same manner as if said act or omission had been done or committed by him personally. (1995-048)

**3.23 DELETED** (2016-029)

**3.24 DELETED** (2016-029)

**3.25 FEES TO CITY TREASURY.**

- a) All officers shall pay all the fees collected by them into the City Treasury. (2014-024)
- b) Any officer violating the provisions of this section shall be personally liable and also liable on any applicable insurance policy of the City, for all moneys received as fees and not paid into the treasury in accordance with the provisions of this Section, and the same may be recovered in an action of debt in the name of the City, in the same manner as fines, penalties and forfeitures may be collected. (1977-004, 2014-024, 2015-016)

**3.26 LEGAL DEFENSE AND INDEMNIFICATION OF CITY OFFICERS AND EMPLOYEES.**

- a) Definitions. For purposes of this Section the term "officer" shall include any elected or appointed official of the City, and the term "employee" shall include all employees of the City, whether under civil service or not; including firemen and policemen. (1986-015)
- b) Indemnification. Any officer or employee who is liable for the payment of any claims or damages, excluding punitive damages, arising out of the course and scope of employment shall be entitled to indemnification by the City provided that the acts or omissions resulting in such liability were done in good faith and without malicious or felonious intent. For the purposes of this Section, the term "arising out of the course and scope of employment" shall not include any action which occurs during a period of time in which the officer or employee is engaged in outside employment or is rendering contractual services to someone other than the City. Whether the acts were done in good faith, without malicious or felonious intent, and within the course and scope of employment shall be determined by the City, and such determination shall be final for the purposes of the representation and indemnity of this Section; provided, however, that in the event such representation and indemnity have been denied by the City, if upon a trial on the merits the City determines that the officer or employee was acting in good faith, without malicious or felonious intent and within the scope of employment the indemnification hereunder shall be granted and reasonable legal expenses incurred in

the defense of the claim reimbursed. The City shall not be liable for any settlement of any such claim or suit effected without its consent, and the City reserves the right to assert any defense and make any settlement of any claim or suit that it deems expedient. (1986-015)

- c) **Representation in Actions.** The City shall have the right and duty to provide legal representation through the City Attorney, or in its discretion through the selection of outside legal counsel, to any officer or employee sued in connection with any claim for damages or other civil action against such person arising out of the course and scope of employment, provided that such officer or employee is entitled to indemnification as set forth in this Section. Such legal representation shall be provided at no cost to the officer or employee, and any officer or employee may have his or her own counsel assist in the defense at the sole expense of the officer or employee. The officer or employee shall cooperate fully with the City in preparation and presentation of the case, and the failure to cooperate shall waive such officer's or employee's right to representation and indemnity under this Section. (1986-015)
- d) **City's Defenses.** Nothing in this Section shall be construed as waiving the City's defense of governmental immunity to it or its employees or officers in any action brought against the City of such officer or employee. For any suit or claim arising under the Illinois Local Governmental and Governmental Employees Tort Immunity Act, the indemnity provided by this Section shall be limited to the statutory limits applicable to the City provided in said Act, as amended. (1986-015)
- e) **Notice.** The provisions of this Section shall apply only where the City has been given notice of the action brought against any City officer or employee within ten (10) days of service of process upon the officer or employee. (1986-015)
- f) **Disciplinary Actions.** Nothing in this Section shall prevent the City from taking disciplinary action against any officer or employee for conduct defended or indemnified by the City under this Section, either before or after conclusion of the civil suit. (1986-015)
- g) **Suits in behalf of the City.** Nothing in this Section shall require the City to indemnify any officer or employee for recoveries made against him or her in suits by or on behalf of the City. The City Council may however, authorize the City Attorney or another licensed attorney to represent any officer or employee in a suit brought by a taxpayer in behalf of the City against the officer or employee. (1986-015, 2014-024)

### **3.27 CITY SEAL.**

The seal herein provided is declared to be the common and corporate seal of the City and shall be used in all cases which by the ordinances of the City or by law or custom, it is or may be necessary for the City or any department or officer thereof, to use a seal.

The seal is described as follows: Upon the top of the shield of the Baron DeKalb shall rest the great golden eagle of the State of Illinois and upon the face of the shield, diagonally

from the lower left to upper right, a golden strand of barbed wire which shall represent the invention and first manufacture of that product in the City. A white scroll shall be in the upper left section representing the exceptional educational facilities of the City from elementary education through advanced degrees at Northern Illinois State University. Stalks of golden corn, representing the discovery and development of hybrid seed and the many pioneering contributions made to the agricultural industry by citizens and industry of the city, shall occupy the lower section of the seal. The background shall be a ribbon on which shall be inscribed, "DeKalb" and the numbers "1856," said numbers representing the year in which the City was incorporated.

### **3.28 SURETY BONDS.**

Wherever in this code a bond is required to be given to the City, such bond shall have as a surety thereon, a regular surety company authorized and licensed to do business under the laws of the State of Illinois.

### **3.29 DELETED (2015-016)**

### **3.30 INSURANCE POLICIES AND CLAIMS SERVICE AGREEMENTS.**

- a) The City Council may, from time to time, approve the procurement, funding and execution of one or more policies of insurance covering the activities of any or all City property or personnel, in such form of coverage as the City Council shall determine to be appropriate.
- b) In order to provide for the administration of such insurance policies, the City Council may, by ordinance or resolution, approve of a Claims Service Agreement or other similar agreement with an insurance company or other party, whereby the other party agrees to service claims initiated with respect to the City, governed under the terms of the policy or policies of insurance procured by the City, whether within or outside the limits of any deductible or self-insured retention amounts.
- c) Subject to the limit of funds appropriated and budgeted for such purpose and any applicable legal restrictions, the City Council's approval of such a Claims Service Agreement or other similar agreement shall constitute authority for the party that the City has contracted with to expend funds from a City Claim Fund or other reserve fund established by the City in cooperation with such party. Such authorization shall also be restricted to any discretionary authority limits that such agreement imposes on the other party, or any other applicable restrictions imposed by the Claims Services Agreement.
- d) Where approved by ordinance or resolution, the City may authorize a designated representative of the City to exercise supplemental spending authority in excess of any other specifically delegated spending authority, for the limited purpose of increasing the discretionary authority limits relative to individual, discrete claims against or involving the City, in circumstances where such designated representative believes such action is necessary to protect the City's best interests, or to promote the public health, safety or

welfare.

- e) All City staff and officials are authorized to take all lawful steps necessary to comply with the terms of any approved policies of insurance or Claims Service Agreements on behalf of the City.
- f) The City of DeKalb shall obtain and maintain in place insurance coverage providing for the faithful performance of the duties of the City Manager, Finance Director, department heads, and all City employees including but not limited to sworn police officers. Said insurance shall also provide for the faithful performance of duties of the elected and appointed officials of the City of DeKalb. Said insurance coverage shall have policy limits as determined by the City Council from time to time. (2015-016)

### **3.31 MUNICIPAL RETIREMENT FUND AGENT.**

- a) Name. There is hereby created and established the position of Municipal Retirement Fund Agent.
- b) Duties. The Municipal Retirement Fund Agent shall be the official agent of the City of DeKalb in all matters concerning the Illinois Municipal Retirement Fund, and said Agent shall, on behalf of the City, sign all affidavits, keep full and complete records of receipts, expenditures, payroll deductions and taxes levied and appropriated for the Retirement Fund, and act as administrative head of the Retirement Fund for the City. The agent shall annually prepare and present to the Council of said City a complete and full report of the City's IMRF-related acts and doings as such agent at the final meeting of the Council in each fiscal year. (2014-024)
- c) Term of Office. The Municipal Retirement Fund Agent shall be appointed by the City Manager by and with the consent of the Council for an indefinite term or until a successor shall be appointed and said appointee shall be selected from the employees or officers of the City. (1982-080)

### **3.32 HARDSHIP RETIREMENT ASSISTANCE.**

- a) All full-time employees may apply for hardship retirement assistance as defined below. Such assistance shall consist of a maximum of three years of individual and dependent health insurance coverage provided by the City under the same terms and conditions regarding coverage, co-insurance, and deductibles as established by applicable labor/management agreements or by the appropriate sections of the municipal code which are in effect at the time of application.
- b) Hardship Retirement shall be applicable when the employee has a physical or mental limitation which has developed over a period of time that demonstrably impairs the employee's ability to effectively perform the duties of the employee's position. In order to be considered for hardship retirement assistance the employee must meet the following criteria:



1. The employee must apply for hardship retirement assistance to the City Manager in writing 30 days prior to the beginning of the municipal fiscal year in which the employee is seeking to retire.
  2. The employee must be eligible to draw a partial or full retirement under the pension plan in which the employee is a participant.
  3. The employee must be in good standing with the City. Good standing shall be defined as the lack of any disciplinary actions against the employee in the five fiscal years prior to the application for hardship retirement assistance in which the final outcome of such disciplinary action resulted in the employee suffering a demotion or loss of wages.
- c) A panel consisting of one alderman selected by the City Council, the City Manager or designee, a representative of the employee's labor union if the employee is a full member, and the employee's Department Head shall review all applications for hardship assistance and shall provide their recommendations to the City Council for their approval.
- d) The City Council shall approve any hardship retirement assistance by majority vote.
- e) The City Council may amend or discontinue this program at any time. If the Council takes such action, employees currently receiving assistance through this program shall continue to receive all benefits previously approved by the City Council when the employee's application was considered. (93-80)

### **3.33 ESDA DISASTER PLAN.**

1. There is hereby created a City of DeKalb ESDA to prevent, minimize, repair and alleviate injury and damage resulting from disaster caused by enemy attack, sabotage, or other hostile action, or from natural or man-made disaster, in accordance with "The Illinois Emergency Services and Disaster Act of 1975."

This ESDA shall consist of the Coordinator and such additional members as may be selected by the Coordinator.

2. The Coordinator of the DeKalb ESDA shall be the City Manager. The Coordinator shall have direct responsibility for the organization, administration, training, and operation of the ESDA, subject to the direction and control of the Mayor of the City of DeKalb as provided by statute. In the event of the absence, resignation, death or inability to serve as the Coordinator, the appointed personnel in the line of succession to the City Manager shall serve as ESDA Coordinator.
3. The City ESDA shall perform such ESDA functions within the City as shall be prescribed in and by the state ESDA plan and program prepared by the Governor, and such



orders, rules and regulations as may be promulgated by the Governor, and in addition shall perform such duties outside the corporate limits as may be required pursuant to any Mutual Aid agreement with any other political subdivision, municipality or quasi-municipality entered into as provided in "The State ESDA Act of 1975."

4. All or any members of the City organization may be designated as members of a mobile support team created by the Director of the State ESDA as provided by law. The leader of such Mobile Support Team shall be designated by the Coordinator of the City ESDA organization. Any member of a Mobile Support Team who is a City employee or officer while serving on call to duty by the Governor, or the State Director, shall receive the compensation and have the powers, duties, rights and immunities incident to such employment or office. Any such member who is not a paid officer or employee of the City, while so serving, shall receive from the State reasonable compensation as provided by law.
5. The Coordinator of ESDA may negotiate Mutual Aid Agreements with other cities, counties or political subdivisions of the State, but no such agreement shall be effective until it has been approved by the City Council and by the State Director of ESDA.
6. If the Governor proclaims that a disaster emergency exists in the event of actual enemy attack upon the United States or the occurrence within the State of Illinois of a major disaster resulting from enemy sabotage or other hostile action, or from man-made or natural disaster, it shall be the duty of the City ESDA to cooperate fully with the State ESDA and with the Governor in the exercise of emergency powers provided by law.
7. Members of the ESDA who are paid employees or officers of the City, if called for training by the State Director of ESDA, shall receive for the time spent in such training the same rate of pay as is attached to the position held.
8. The Finance Director may receive and allocate to the appropriate fund, any reimbursement by the State to the City for expenses incident to training members of the ESDA as prescribed by the State Director of ESDA, compensation for services and expenses of members of a Mobile Support Team while serving outside the City in response to a call by the Governor or State Director of ESDA, as provided by law, and any other reimbursement made by the State incident to ESDA activities as provided by law. (2014-024)
9. The City Council may, on recommendation of the City Coordinator of ESDA, authorize any purchase of contracts necessary to place the City in a position to combat effectively any disaster and to protect the public health and safety, protect property, and provide emergency assistance to victims in the case of any man-made or natural disaster.

In the event of enemy caused or other disaster, the City Coordinator of ESDA is authorized, on behalf of the City, to procure such services, supplies, equipment or material as may be necessary for such purposes, in view of the exigency without regard to the statutory procedures or formalities normally prescribed by law pertaining to City

contracts or obligations, as authorized by "The State ESDA Act of 1975," provided that if the City Council meets at such time he shall act subject to the directions and restrictions imposed by that body.

10. Every person appointed to serve in any capacity in the City ESDA organization shall, before entering upon any duties, subscribe to the following oath, which shall be filed with the Coordinator: (2014-024)

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and defend and bear true faith and allegiance to the Constitution of the State of Illinois, and the territory, institutions and facilities thereof, both public and private, against all enemies, foreign and domestic; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I, nor have I been a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence; and that during such time as I am affiliated with the DeKalb ESDA organization, I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence."

11. The Mayor of the City Council is authorized to designate space in a City building, or elsewhere, as may be provided for by the City Council for the City ESDA and its office.
12. The City Council may make an appropriation for ESDA purposes in the manner provided by law, and may levy in addition for ESDA purposes only, a tax not to exceed five (5) cents per one hundred (100) dollars of the assessed value of all taxable property in addition to all other taxes, as provided by "The State ESDA Act of 1975"; however, that amount collectable under such levy shall in no event exceed \$0.25 per capita. (1976-066, 1994-086, 2014-024)
13. Ordinance 1994-086 shall be in force from and after its passage and approval, as provided by law. Ordinance 1994-086 shall supersede and make null and void any previous ordinance dealing with the establishment of an ESDA Department for the City of DeKalb.

**3.34 DELETED** (2016-029)

**3.35 DELETED** (2016-029)

**3.36 DELETED** (2016-029)

**3.37 DELETED** (2016-029)

**3.38 DELETED** (2016-029)

**3.39 DELETED (2016-029)**

**3.40 COMPENSATION.**

The elected officers and members of appointive boards and commissions shall receive such compensation as shall be fixed in an ordinance other than the annual budget ordinance. (2016-29)

**3.41 DELETED (2016-029)**

**3.42 DELETED (2016-029)**

**3.43 DELETED (2016-029)**

**3.44 DELETED (2016-029)**

**3.45 DELETED (2016-029)**

**3.46 RESIDENCY REQUIREMENTS FOR EMPLOYEES AND OFFICERS.**

- a) All employees serving in emergency response positions hired or appointed on or after October 1, 1977, shall, within a period of fifteen (15) months from their appointment or hiring, become residents within an area depicted in the attached “Employee Residency Boundary Map,” provided that if any portion of the incorporated limits of a city, town, or village is included within this area, then all of such city, town, or village shall be included within the area wherein persons covered by this Section 3.46 shall reside. The boundaries so established are depicted on Exhibit "A" and made a part of this Ordinance; said Exhibit "A" shall be available for inspection in the City Clerk's office. (1998-107, 2004-020)
- b) The City Manager is authorized to grant extensions for compliance with the requirement to establish residency within fifteen (15) months of the date of hire, with said extensions not to exceed a period of an additional twelve (12) months. (1998-107, 2004-020, 2004-046)
- c) The following positions are classified as emergency response positions under this Chapter 3 (with additional positions classified as emergency response positions under the City's various collective bargaining agreements): (1998-107, 2001-030, 2004-046, 2005-006, 2010-038, 2012-052)

Assistant Director of Public Works (2012-071)

Assistant Fire Chief

Chief Building Inspector (2005-006, 2010-038)

Chief Property Maintenance Inspector (2005-006, 2010-038)

Communications Coordinator

Deputy Chief of Police (2012-071)

Deputy Fire Chief (2012-071)

Information & Technology Director (2004-020)  
Operations/Maintenance Section Manager (2010-038)  
Police Commander (2012-071)  
Police Lieutenant

- d) Existing employees being involuntarily reassigned to an emergency response or department head position will not be required to move into the residency boundaries established by this ordinance unless they move from their current address. (1998-107, 2004-046)
- e) If appropriate, new positions will be identified as an emergency response position at the time of creation. (1998-107, 2004-046)
- f) Employees in the positions of police chief and fire chief hired after February 1, 2011, shall be required to establish residency within the corporate limits of the City within fifteen (15) months of the date of hire, with the City Manager authorized to grant extensions for a period not to exceed an additional six (6) months. (1990-012, 1997-095, 2004-055, 2011-002)
- g) Residency requirements for City Manager shall be as required by the applicable employment agreement. (2014-002)