

City ordinance, rule or regulation. This ban applies to and includes the spouse, minor child, immediate family member, or other member of the household of the covered person.

- (B)** Gift ban exceptions. The restrictions above do not apply to the following:
1. Opportunities, benefits, and services that are available on the same conditions as for the general public;
 2. Anything for which the covered person pays the market value;
 3. Any (i) contribution that is lawfully made under the election code or under this Chapter; or (ii) activities associated with a fundraising event in support of a political organization or candidate;
 4. Educational materials and magazines that have been reviewed and approved by the Inspector General;
 5. Travel expenses paid for by the City for a meeting to attend to City business that have been reviewed and approved by the City Manager or his or his designee;
 6. A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiancé or fiancée;
 7. Anything provided by an individual on the basis of a personal friendship unless the covered person has reason to believe that under the circumstances the gift was provided because of the official position or employment of the covered person and not because of personal friendship;
 8. In determining whether a gift is provided on the basis of personal friendship, the covered person shall consider the circumstances under which the gift was offered, such as:
 - a. The history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals;
 - b. Whether in the actual knowledge of the covered person, the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift;
 - c. Whether in the actual knowledge of the covered person, the individual who gave the gift also at the same time gave the same or similar gifts to other covered person; and
 - d. Whether in the actual knowledge of the covered person, the individual who gave the gift had any matter proposed or pending before the City that related directly or indirectly to the covered person.
 9. Food or refreshments not exceeding fifty dollars (\$50.00) per person in value that are provided and consumed on a single calendar day and that

are provided in connection with a meeting associated with official City duties provided (1) that the food or refreshments are consumed on the premises from which they were purchased, prepared or catered; (2) that the anticipated provision of food or beverages is disclosed to the supervisor of the employee(s) in writing no less than twenty-four (24) hours in advance; or (3) that the receipt of the food or refreshments is disclosed in writing to the Inspector General within twenty-four (24) hours after receipt of food and beverages. For the purposes of this Section, "catered" means food or refreshments that are purchased ready to eat and that are delivered by any means. This provision is not intended to allow employees to receive food or beverages which are not part of an official preapproved meeting in connection with City duties;

10. Food, refreshments, lodging, transportation and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the City duties of the covered person as an office holder or employee) of the covered person, if the benefits have not been offered because of the official position or employment of the covered person, and are customarily provided to others in similar circumstances;
11. Intra-governmental and inter-governmental gifts;
12. Bequests, inheritances and other transfers at death; or
13. Anything provided as a gift to a covered person because that person is retiring or leaving office or City employment provided that each such gift is disclosed to the Inspector General within twenty-four (24) hours of receipt.

Each of the exceptions listed in this section is mutually exclusive and independent of one another.

- (C) Disposition of gifts. A covered person does not violate this Section if the covered person makes timely disclosure in writing of the receipt of the gift to the Inspector General and informs the Inspector General in writing that the prohibited gift has been returned to the source identified in the written disclosure, or provides written disclosure to the Inspector General of the receipt of the gift along with appropriate documentation which demonstrates that the gift or an amount equal to its value has been given to an appropriate charity that is exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered or succeeded.

1-10-7.- WHISTLE BLOWER PROTECTION.

No covered person shall take any retaliatory action against any person because that person has engaged in protected activity.

1-10-8.- ETHICS TRAINING.

- (A) Ethics training: Beginning in 2019, each covered person must complete, on an annual basis, an ethics training program disbursed by the Law Department. This training program shall:

1. Require each covered person to review this Code of Ethics and to sign a statement attesting to the fact that the covered person has read and understands this Code of Ethics; and
 2. Discuss the requirement that each covered person must act in accordance with federal and state law and City regulations and in compliance with this Code of Ethics. Each director must also implement an ongoing ethics training program for that department's employees. This ongoing ethics training program shall be overseen by the City Manager. The director of each department and the City Manager, on an annual basis shall submit a written statement to the City Council attesting to the fact that the ethics training has taken place during that calendar year.
- (B) Each calendar year, the City of Evanston Law Department shall meet with the City Manager to review the implementation of this Code of Ethics, the status of ongoing training and discuss any needed changes. The Law Department and City Manager shall make an annual report to the City Council in writing about this meeting, the status of the implementation of this Code of Ethics, and any recommended changes.

1-10-9.- ABUSE OF THE CODE OF ETHICS.

It shall be a violation of this Code of Ethics for any covered employee to knowingly engage in the following conduct:

- (A) Intentionally and in bad faith make a false report alleging a violation of any provision of this Code of Ethics.
- (B) Intentionally and in bad faith obstruct or attempt to obstruct the implementation of this Code of Ethics or an investigation of any alleged violation of this Code of Ethics.

1-10-10.- ENFORCEMENT AND PENALTIES.

- (A) Discipline for elected officials and appointed officials. The City Council may take action against any elected official or appointed official who has been found by the City Council to violate the Code of Ethics. Actions that the City Council may take against elected officials and appointed officials include but are not limited to: counseling, reprimand or public censure. The City Council, may where appropriate, discharge appointed officials. The City Council may not discharge an elected official.
- (B) Discipline for employees. In each instance where the City Manager takes such action, the City Manager shall make a written report to the City Council of the facts surrounding the violation of this Code of Ethics and explain what action, if any, was taken, to discipline the employee. For those employees covered under a collective bargaining agreement, discipline will be given in accordance with their collective bargaining agreement.

1-10-11.- BOARD OF ETHICS ESTABLISHMENT, MEMBERSHIP, QUALIFICATIONS, TERMS OF OFFICE, AND ORGANIZATION.

- (A) The City of Evanston Board of Ethics is hereby established. The Board of Ethics shall consist of five (5) members appointed by the Mayor with the consent of the City Council.
- (B) Five (5) voting members shall be appointed annually to the Board of Ethics by the Mayor with the advice and consent of the City Council. Each member of the Board of Ethics may not serve more than four (4) annual terms. The Chair of the Board of Ethics shall be appointed by the Mayor. The appointed board members shall be residents of the City who are known for personal integrity and sound judgment, who are not employees of the City, who have no claim pending against the City and who have no contractual relationship with the City. The members shall serve without compensation for their services.
- (C) If a vacancy occurs before the end of a term, a member shall be appointed by the Mayor with the consent of the City Council for the unexpired portion of the term.
- (D) At the first meeting in January of each year, or at a meeting as close to that date as practicable, the Board of Ethics shall elect a Vice-Chair. The Chair shall preside over all meetings. The Vice-Chair shall perform all duties of the chair in the absence of the Chair.

1-10-12.-CALL OF MEETING

The Chair or in their absence or inability to act, the Vice-Chair, shall call such meetings as are necessary for the conduct of the Board of Ethics business. A meeting may be called by any three members of the Board. This Board of Ethics will operate in full conformance with the Illinois Open Meetings Act 5 ILCS 120/1 et seq. and in accordance with the Board of Ethics Rules.

1-10-13.- POWERS AND DUTIES

The Board of Ethics shall have the following powers and duties:

- (A) Where an investigation occurs by the Board of Ethics, , to give advisory opinions to the Hearing Officer on proposed action(s);
- (B) To investigate complaints concerning unethical conduct as to any official or employee of the City and render its opinion to the Hearing Officer;
- (C) To make recommendations to the City Council for changes in the City's Code of Ethics;
- (D) The Board of Ethics may adopt such rules as it deems necessary for the conduct of its business. The findings of the Board of Ethics are advisory only and all final decisions are made by the Hearing Officer; and
- (E) The Board of Ethics does not have the power to issue subpoenas.

1-10-14.- FORMAL COMPLAINTS AND FINDINGS OF VIOLATION.

Formal ethics complaints. Any person (complainant) may file a formal ethics complaint with the Board of Ethics through the Inspector General or by written complaint to the Board of Ethics.

- (A) The complaint shall state the name of complainant (complainant), the name of the person accused (respondent) and set forth the specific act or acts alleged to constitute a violation against the ethics code along with all facts known to the complainant that support the complaint.
- (B) An acknowledgment of receipt of the complaint shall be sent by the Inspector General via email to the complainant within seven (7) calendar days of receipt of the complaint.
- (C) The Inspector General and Chair of the Board of Ethics shall make up the Advisory Panel. The Advisory Panel will make a preliminary determination as to whether the complainant has stated sufficient facts to constitute a violation of the Ethics Code. If the Advisory Panel determines that the complaint fails to state a violation of the ethics code, the Advisory Panel will give their findings to the Board of Ethics to review in closed session at the next regularly scheduled meeting of the Board of Ethics. The Board of Ethics shall determine whether the complaint should be dismissed. If the Board of Ethics determines that the complaint should be dismissed, the Inspector General will communicate that finding to the complainant within seven (7) calendar days from the determination and the complaint or findings is not subject to disclosure under the Illinois Freedom of Information Act.
- (D) Upon agreeing that the complaint alleges sufficient facts to state a violation, the Board of Ethics shall conduct an investigation and hearing in accordance with Section 1-10-17-6 led by the Inspector General, of the facts in the complaint; such investigation may include, but is not restricted to interviewing the complainant, the respondent, officials and employees of the City, and any other person who might reasonably have information relevant to the complaint and who agrees to speak to the Board of Ethics. The investigation shall also include a review of all relevant documents and records.
- (E) The Board of Ethics shall render its opinion in writing as soon as practicable after its investigation is concluded. The opinion shall include a finding of facts, the identification of the specific ethics ordinance provision that was allegedly violated, and an opinion based upon the factual findings as to whether the alleged violation was sustained or not.
- (F) A copy of the Board of Ethics opinion shall be sent to the respondent. Within seven (7) business days from receipt of the opinion, the respondent may object and ask for reconsideration in writing of the opinion; said objection must set forth in detail the basis for the objection. The objection must be received by the Inspector General, within the seven (7) business day period set forth above.
- (G) Upon receipt of a timely objection and request for reconsideration, the Board of Ethics shall evaluate the objection and take whatever steps are necessary to reach a conclusion on the objection.
- (H) After due consideration of any objection and request for reconsideration, if made, the Board of Ethics shall render its final opinion in writing. The final opinion shall

be sent to the respondent. Only if, and when, the respondent objects to the final opinion, the City Council shall act as a Board of Appeals.

1-10-15.- REFERRAL OF FINAL OPINIONS OF THE ETHICS BOARD TO THE CITY COUNCIL FOR FINAL ACTION.

The following are the procedures to be followed when a final opinion of an ethics complaint is forwarded to the City Council for action.

- (A) The Chair of the Board of Ethics shall forward the Board of Ethics Opinion to the City Manager. Upon receipt, the City Manager shall put the Board of Ethics Opinion on the Executive Session Agenda at the next regularly scheduled City Council meeting.
- (B) At the Executive Session of the City Council, Final Opinion will be considered.
- (C) Any time prior to the issuance of the final opinion by the City Council, the Board of Ethics amend the Opinion to address the allegations and penalties against the respondent ordered per Section 1-10-10. Any Final Settlement must be approved by the City Council. Whether the settlement is made public or not is determined by the City Council. For settlement purposes the hearing may be continued from time to time at the discretion of the City Council.
- (D) If an Elected Official, a member of the City Board of Ethics, or the City Manager are the subject of the Complaint, they are barred from all participation directly or indirectly in the complaint process including voting on said Complaint, except where they are to provide testimony or evidence relating to the Complaint, or provide testimony or evidence to refute said Complaint.

1-10-16.- ESTABLISHING THE OFFICE OF INSPECTOR GENERAL.

- (A) The Office of Inspector General is hereby established.
- (B) The Inspector General shall be appointed by the Mayor with the consent of the City Council and will have duties as outlined in this Chapter. The Office of the Inspector General will be administered through the City Manager's Office and an independent contractor.
- (C) The Inspector General shall create their own rules and regulations to execute their duties as outlined in this article. The rules and regulations shall be published in pamphlet form available to the public.
- (D) The Inspector General on his or her own action can initiate an ethics investigation. The findings of such an investigation shall be provided to the Advisory Panel as outlined in City Code Section 1-10-4(D).

1-10-17.- ADMINISTRATIVE HEARING PROCEDURES FOR ETHICS HEARINGS CONDUCTED BY THE INSPECTOR GENERAL.

1-10-17-1. - Definitions.

The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Code.	City of Evanston Code of Ethics.
Hearing Officer.	Inspector General will act as a Hearing Officer whose duty it is to: <ol style="list-style-type: none"> (1) Preside at an administrative hearing called to determine whether or not a Code violation exists; (2) Hold conferences for the settlement or simplification of the issues; (3) Administer oaths and affirmations; (4) Hear testimony and accept evidence from all interested parties relevant to the existence of a Code violation; (5) Rule upon motions, objections and the admissibility of evidence; (6) At the request of any party or on the administrative hearing officer's own motion, subpoena the attendance of relevant witnesses and the production of relevant books, records or other information; (7) Preserve and authenticate the transcript and record of the hearing and all exhibits and evidence introduced at the hearing; and regulate the course of the hearing in accordance with this division, or other applicable law; (8) Issue a final order which includes findings of fact and conclusions of law; and (9) Impose penalties and issue orders that are consistent with applicable Code provisions and assess costs upon finding a party liable for the charged violation.

1-10-17-2. - Creation of ethic administration adjudication.

- (A) Establishing a system of administrative hearings, pursuant to this Section, shall provide for enforcement of Code violations within the City of Evanston. The ordinance shall establish the jurisdiction of a Code hearing that is consistent with this division.
- (B) Adjudicatory hearings shall be presided over by the Hearing Officer.

1-10-17-3. - Rules of evidence.

Rules of evidence shall not govern. The formal and technical rules of evidence do not apply in an administrative hearing permitted under this division. Evidence, including hearsay, may be admitted only if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

1-10-17-4. - Subpoenas.

- (A) Hearing Officer may issue a subpoena only if he or she determines that the testimony of the witness(es) or the document(s) or item(s) sought by the subpoena are necessary to present evidence that:
1. Is relevant to the case; and
 2. Relates to a contested issue in the case.
- (B) A subpoena issued under this division shall identify:
1. The person to whom it is directed;
 2. The documents or other items sought by the subpoena, if any;
 3. The date for the appearance of the witness(es) and the production of the document(s) or other item(s) described in the subpoena;
 4. The time for the appearance of the witness(es) and the production of the document(s) or other item(s) described in the subpoena; and
 5. The place for the appearance of the witness(es) and the production of the document(s) or other item(s) described in the subpoena.
- (C) In no event shall the date identified for the appearance of the witness(es) or the production of the document(s) or other item(s) be less than seven days after service of the subpoena.
- (D) Within three business days of being served with a subpoena issued in accordance with this division, the recipient of the subpoena may contest the order authorizing the issuance of the subpoena to the Hearing Officers, setting forth in detail the recipient's objections to the subpoena. Upon receipt of the contest to the subpoena, the Hearing Officer shall review the objections and, upon review, enter the appropriate order.

1-10-17-5. - Representation at hearings.

- (A) The case for the City may be presented by any City Employee or by an attorney designated by the City.
- (B) The case for the respondent may be presented by the respondent, any agent of the respondent or an attorney. An agent shall present a written authorization signed by the respondent giving the agent power to act and to bind the respondent to any order(s) entered by the hearing officers.

1-10-17-6. - Conduct of hearings.

The Hearing Officer shall conduct the hearing in an orderly manner and insist upon proper decorum by all persons present at the hearing. The intent of the hearing is to provide the City and the respondent full and fair presentation of the issues.

Conduct of the hearing shall be as follows:

- Opening arguments if requested by either party;
- Ethics Board case in chief;
- Examination of witness;
- Cross-examination of witness;
- Rebuttal;
- Respondents case in chief;
- Examination of witness;
- Cross-examination of witness;
- Rebuttal;
- Closing remarks if requested by either party.

1-10-17-7. - Documentary evidence.

Relevant documents may be received into evidence without formal proof of authenticity. The Hearing Officer shall determine the weight, if any, to be afforded documents received into evidence.

1-10-17-8. - Transcript of proceedings.

Either party may request that the proceedings be taken and transcribed by a certified court reporter. The cost of the reporter shall be borne by the party requesting the reporter. The City shall, at its cost, tape record the proceedings. If a tape recording is made, a respondent may obtain a transcript at respondent's cost.

1-10-17-9. - Continuances.

All hearing proceedings shall be conducted on the date set. For good cause shown, a postponement may be granted at the discretion of the Hearing Officer. The purpose of hearing proceedings is to provide a prompt resolution of alleged code violations and, accordingly, the request for and the grant of, continuances shall be curtailed to the extent fairness permits.

1-10-17-10. - Administrative hearing procedures not exclusive.

Notwithstanding any other provision of these procedures, neither the authority of the Administrative Hearing Officer to conduct administrative hearing procedures nor the institution of such procedures under these procedures shall preclude the City from seeking any remedies for Code violations through the use of any other administrative procedure or court proceeding.

SECTION 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3: If any provision of this ordinance or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 4: Ordinance 20-O-19 shall be in full force and effect after its passage and approval.

SECTION 5: The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

Introduced: _____, 2019

Approved:

Adopted: _____, 2019

_____, 2019

Stephen H. Hagerty, Mayor

Attest:

Approved as to form:

Devon Reid, City Clerk

Michelle L. Masoncup, Corporation Counsel