

## **BOARD OF ETHICS MEETING**

Tuesday, May 21, 2019

7:00 p.m.

Lorraine H. Morton Civic Center, 2100 Ridge Avenue, Room 2404

### **AGENDA**

#### **1. CALL TO ORDER / DECLARATION OF QUORUM**

#### **2. PUBLIC COMMENT**

#### **3. APPROVAL OF MEETING MINUTES**

April 16, 2019

#### **4. NEW BUSINESS**

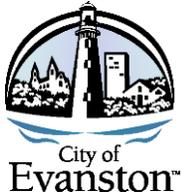
- A. Review of updated draft Ethics Ordinance from the Subcommittee of the Rules Committee

#### **5. Executive Session**

### **ADJOURNMENT**

Next Regularly Scheduled Meeting:

June 18, 2019 at 7:00 p.m. in Room 2404



## **MEETING MINUTES**

### **BOARD OF ETHICS**

Tuesday, April 16, 2019

7:00 p.m.

Lorraine H. Morton Civic Center  
2100 Ridge Ave, Room 2404

Members Present: Jennifer Billingsley, Vincent Thomas, Elizabeth Gustafson, Karena Bierman and LJ Ellul

Members Absent: None

Staff Present: Hugh DuBose, Assistant City Attorney

Presiding Member: Jennifer Billingsley, Committee Chair

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1. **Quorum:** Chairwoman Billingsley declared that the Board had a quorum, with 5 of 5 members present and called the meeting to order.
  2. **Public Comment:** The Board opened up the meeting for public comment. The following individuals provided public comment: Misty Witenberg, Nancy Sreenan, and Claire Kelly. Misty Witenberg expressed concern about the drafting of the new ethics ordinance and the Board of Ethics input in the new ordinance. She requested the Board of Ethics provide input into the new ordinance. She also requested the Board issue an advisory opinion regarding Alderman conflicts of interest. Nancy Sreenan objects to the City not implementing a rule preventing an Alderman from forwarding a constituent's email without CCing the citizen who sent the email. Clare Kelly expressed concern that all correspondence she sent went through City Counsel and requested an impartial member review correspondence. Clare Kelly also stated that all of the recommendations of the Board of Ethics were not detailed in the transmission memo or adopted by the Rules Committee.
  3. **Approval of Meeting Minutes:** Chair Billingsley stated that the next portion of the meeting relates to approval of meeting minutes.

December 18, 2018 Meeting Minutes Chair Billingsley confirmed that everyone had a copy of the minutes; the Board affirmed.

Member Bierman provided comments correcting two drafting errors in the December 18, 2018 meeting minutes. Member Thomas requested that the date on the first page of the minutes be changed from 2019 to 2018.

Member Thomas moved for the Board to adopt the revised minutes of December 18, 2018 with revisions incorporated. Member Ellul seconded. The motion passes unanimously.

Discussion of Policy Related to Board of Ethics Public Comment: Chair Billingsley stated the Board of Ethics needed to formally adopt rules for public comment. The Board of Ethics has traditionally provided 45 minutes of public comment and allowed no more than 3 minutes per person. Chair Billingsley asked Assistant City Attorney DuBose to provide draft public comment language for the Board of Ethics to review at the next meeting.

Update from the Subcommittee of the Rules Committee to revise the Code of Ethics. Assistant City Attorney DuBose provided an update that the Subcommittee is working on an updated version of the new code of ethics that will be presented at its April 22, 2019, meeting. Chair Billingsley stated that the Board would like to review and comment on the new ordinance.

Member Guftason states that it would not be constructive to review a version of the ordinance that has already been significantly revised.

Chair Billingsley motions to write a letter to Chair of Sub Committee stating that the Board would like to review and provide comments on a close to final ordinance. Vincent seconds, motion passes 5-0.

Consider adoption of Guidance on Voting on Matter Relating to Oneself. Chair Billingsley and Member Bierman recused themselves from this matter. Member Guftason requested a break to in the proceedings. Chair Billingsley made a motion to recess. The motion was seconded by Member Thomas. The Board voted to recess. Board recessed. The Board resumed the meeting. Member Thomas stated that the version of the ordinance in the packet is being revised and commenting on the current version would be moot. Member Ellul asked whether the Rules Committee would vote on the ordinance on April 22, 2019, finalizing the ordinance. Assistant City Attorney DuBose confirmed that the Ethics Subcommittee of the Rules Committee will meet on April 22, 2019, but that the Rules Committee does not have a meeting scheduled for the same day. Member Thomas made a motion to table the issue. Member Guftason seconded the motion and the motion passed 3-0 with Chair Billingsley and Member Bierman abstaining.

Review and Respond to Correspondence Submitted to the Board of Ethics Financial Disclosures. Chair Billingsley stated that Staff is forwarding email to the Board promptly. She would like a dedicated a city email address for the Board of Ethics that would automatically forward correspondence to Board members.

The Board reviewed Clare Kelly's email dated December 17, 2018.

Chair Billingsley stated the Board is always the last to know about complaints and there have been situations where she learned about the complaint by reading the packet.

The Board discussed the best way to handle correspondence from the community. There Board of Ethics wants to make sure they receive every email directly. Member Thomas requested that the person sending the email receive an automatic reply. Chair Billingsley directed Assistant City Attorney DuBose to contact IT and determine if a City email account can be created that will automatically forwarded the email to the Board members.

The Board reviewed emails from Clare Kelly dated January 16, 2019, and Nancy Sreenan dated January 17, 2019.

The Board discussed how to address the Rules Committee's decision to not implement all of the Board's recommendations. Chair Billingsley suggested that they make a motion to send recommendations back to the rules committee. Member Thomas makes a motion to send advisory opinions to the Rules Committee making note that the transmission memo did not adequately address the Board of Ethic's Recommendations. Member Eulel seconded. Motion passed 4-0 with Member Bierman abstaining.

Assistant City Attorney DuBose reminded the Board of Ethics that Financial Disclosures are due May 1, 2019. The Board should contact Assistant City Attorney DuBose is they do not receive an email from the City Clerk's Office with a link to their financial disclosure form.

4. **Adjournment:** Upon motion by Chair Billingsley and second by Member Thomas, the meeting was adjourned with all voting in favor.

**20-O-19**

**AN ORDINANCE**

**Amending Title 1, Chapter 10 of the Evanston City Code,  
“City of Evanston Code of Ethics and Board of Ethics”**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
EVANSTON, COOK COUNTY, ILLINOIS:**

**SECTION 1:** Title 1, Chapter 10, “Board of Ethics,” of the Evanston City Code of 2012, as amended, is hereby deleted in its entirety and further amended to read as follows:

**Chapter 10 – City of Evanston Code of Ethics and Board of Ethics.**

**1-10-1.- PURPOSE.**

It is the policy of the City of Evanston that its elected officials, appointed officials and employees shall, in all cases, exercise good judgment and perform their duties for the sole benefit of the residents of the City. To this end, except as is expressly permitted by this Code of Ethics, each City employee, each elected official and each appointed official is prohibited from soliciting, accepting or retaining any personal economic benefit or opportunity as this may impair or present the appearance of impairing the ability to fulfill their duties solely for the benefit of the residents of Evanston. It is further the policy of the City that all appearances of impropriety shall be avoided. The [City of Evanston Board of Ethics](#) hereby determines that a policy setting forth ethical principles and regulations applicable to all City elected officials, appointed officials and employees is in the best interests of the City of Evanston and its residents. Such a policy will contribute to the public confidence in the integrity and honesty of employees, elected officials and appointed officials and in their ability to perform their duties solely for the public good. To that end this Code of Ethics is adopted.

**1-10-2.- DEFINITIONS.**

<i>Affirmation.</i>	Telling a truthful statement.
<i><a href="#">Appointed Official.</a></i>	<a href="#">Any member of a board or commission appointed by the Mayor or the City Council.</a>
<i>Change in status.</i>	Any change of any kind or nature in the information required to be filed or disclosed pursuant to this Code of Ethics.
<i>City approval.</i>	Any contract, legislative action, administrative action,

	transaction, zoning decision, permit decision, licensing decision, or other type of approval action that may be the subject of an official City act or action.
<i>Code.</i>	The City of Evanston Code of Ethics.
<i>Compensated time.</i>	With respect to an employee, any time worked by or credited to the employee that counts toward any minimum work time requirement imposed as a condition of his or her employment. For purposes of this Code, compensated time shall not include any designated holidays, vacation periods, personal time, compensatory time or any period when the employee is on a leave of absence. For employees whose hours are not fixed, "compensated time" includes any period of time when the employee is on premises under the control of the City and any other time when the employee is executing his or her City duties, regardless of location.
<i>Compensatory time.</i>	Authorized and documented time off from work earned by or awarded to an employee to compensate in whole or in part for time worked in excess of the minimum work time required of that employee as a condition of employment with the City.
<i>Covered person.</i>	Unless otherwise stated or expressly limited, this shall mean every elected official, appointed official or employee of the City.
<i>Director.</i>	Each City department head.
<i>Elected official.</i>	The Mayor, <del>and</del> any member of the City Council chosen by the City electorate and any duly appointed member of the City Council <del>and the City Clerk.</del>
<i>Employee.</i>	Any person employed by the City (whether part-time or full time and whether or not pursuant to a contract) whose duties are subject to the direction and control of the City Council or a City supervisor with regard to the material details of how the work is to be performed. Employee does not include an independent contractor.
<i>Ethics.</i>	Matters of right and wrong behavior.
<i>Gift.</i>	Any money, fee, commission, credit, gratuity, thing of value including a discount, entertainment, hospitality, loan, forbearance, other tangible or intangible item having monetary value. This includes compensation of any kind including, but not limited to, cash, food and drink, or honoraria for speaking engagements related to or attributable to government employment or the official position of a covered person.
<i>Hearing Officer.</i>	<del>Special Counsel Inspector-General</del> will act as a Hearing Officer whose duty it is to: <ol style="list-style-type: none"> <li>(1) Preside at an administrative hearing called to determine whether or not a Code violation exists;</li> <li>(2) Hold conferences for the settlement or simplification of the issues;</li> <li>(3) Administer oaths and affirmations;</li> </ol>

	<p>(4) Hear testimony and accept evidence from all interested parties relevant to the existence of a Code violation;</p> <p>(5) Rule upon motions, objections and the admissibility of evidence;</p> <p>(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;</p> <p>(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;</p> <p>(8) Issue a final order which includes findings of fact and conclusions of law; and</p> <p>(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.</p>
<i>Interest in real property.</i>	This shall include, but is not limited to any legal or beneficial interest whatsoever in real property through (i) a trust; or (ii) contract to purchase where title may not have been yet conveyed; or (iii) a corporation, an investment group or limited liability company or partnership; or (iv) leasehold or rental agreement.
<i>Intra-governmental and inter-governmental gifts.</i>	Intra-governmental gift means any gift given to a covered person from another covered person. Inter-governmental gift means any gift given to a covered person by an elected official, appointed official or employee of another public body.
<i>Other members of a person's household.</i>	A person who is not a spouse or minor child a of covered person who resides at the same residence of the covered person at least 180 days per year and does not pay fair market value rent.
<u><i>Persons doing business.</i></u>	<u>Any one or any combination of sales, purchases, leases or contracts to, from or with the City in an amount in excess of \$10,000 in any twelve (12) consecutive months.</u>
<u><i>Persons seeking to do business.</i></u>	<u>(1) Any person taking any action within the past six (6) months to obtain a contract or business from the City when, if such action were successful, it would result in the person's doing business with the City, and the contract or business sought has not been awarded to any person; or (2) any matter that was pending before the City Council in the six months prior to the date of the contribution if the matter involved the award or loan funds, grant funds or bond proceeds, bond inducement ordinances, leases, land sales, zoning matters, the creating of tax increment financing districts or concession agreements.</u>
<i>Political activity.</i>	Any activity in support of or in connection with any campaign for elective office or any political organization, including but not

	<p>limited to the following:</p> <ul style="list-style-type: none"> <li>(a) Preparing for, organizing or participating in any political meeting, political rally, political demonstration or other political event;</li> <li>(b) Soliciting contributions, including but not limited to the purchase, selling, distributing or receiving payment for tickets for any political fundraiser, political meeting or other political event;</li> <li>(c) Soliciting or planning the solicitation of (by preparing any document or report regarding) anything of value intended as a campaign contribution;</li> <li>(d) Planning, conducting or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question;</li> <li>(e) Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question;</li> <li>(f) Assisting at the polls on election day on behalf of any political organization or candidate for elective office or for or against any referendum question;</li> <li>(g) Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls;</li> <li>(h) Initiating for circulation, preparation, circulating, reviewing or filing any petition on behalf of a candidate for elective office or for or against any referendum question;</li> <li>(i) Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office;</li> <li>(j) Preparing or reviewing responses to candidate questionnaires;</li> <li>(k) Distributing, preparing for distribution or mailing campaign literature, campaign signs or other campaign material on behalf of any candidate for elective office or for or against any referendum question;</li> <li>(l) Campaigning for an elective office or for or against any referendum question;</li> <li>(m) Managing or working on a campaign for elective office for or against any referendum question;</li> <li>(n) Serving as a delegate, alternate or proxy to a political party convention;</li> <li>(o) Participating in any recount or challenge to the outcome of any election.</li> </ul> <p>Political activity shall not include activities (i) relating to collective</p>
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	bargaining, or (ii) that are otherwise in furtherance of the person's official <del>City/village</del> duties or governmental and or public service functions.
<i>Political organization.</i>	A party, committee, association, fund, or other organization (whether or not incorporated) that is required to file a statement of organization with the state board of elections or a county clerk under the Illinois Election Code, but only with regard to those activities that require such filing with the state board of elections or a county clerk.
<i>Prohibited source.</i>	Any person or entity who (that): (a) Whether directly or indirectly seeks or solicits any official action from a covered person or from a public body or a person who directs a covered person; (b) Whether directly or indirectly, does business with or seeks to do business with a covered person or with a public body or a person who directs a covered person; (c) Whether directly or indirectly, is regulated by a covered person or by a public body or a person who directs a covered person; (d) Whether directly or indirectly has any interest that may be substantially affected by the performance or non-performance of the official duties of a covered person; or (e) Is registered or required to be registered with the Secretary of State under the Lobbyist Registration Act, except that an entity not otherwise considered to be a prohibited source does not become a prohibited source merely because a registered lobbyist is a member of that entity or serves on its board of directors.
<i>Protected activity.</i>	For purposes of this Chapter, protected activities means the following: (a) Disclosure or threat to disclose an activity, policy or practice that the covered person reasonably believes is a violation of a federal, state or City law, rule or regulation; (b) Providing of information to or testimony before any public body conducting an investigation, hearing or inquiry of any kind into any possible violation of a federal, state or City law, rule or regulation; or (c) Cooperation with or participation in any federal, state, or municipal proceeding to enforce the provisions of this Code of Ethics.
<i>Public body.</i>	(1) The federal government, federal agency, federal judiciary, federal official or employee, any federal law enforcement agency or office, or federal grand jury or petit jury; (2) a state government, state agency, state judiciary, state official or employee, any state law enforcement agency or office or state grand jury or petit jury;

	(3) a municipal government, municipal agency or department, municipal committee, municipal judiciary, municipal official or employee, any municipal law enforcement agency or office; or (4) county, township, special districts, or other taxing entity.
<i>Retaliatory action.</i>	<p>(a) Retaliation against an employee: Adverse action of any kind against any employee including but not limited to the reprimand, discharge, suspension, demotion or denial of promotion or transfer of any employee, or the imposition of a punishment as set forth in this Code of Ethics that is administered to an employee because of the employee's involvement in protected activity as set forth in this Code of Ethics;</p> <p>(b) Retaliation against an elected official or appointed official: Adverse action of any kind against an elected official or appointed official including, but not limited to, the filing of a bad faith complaint by a covered person against an elected official or appointed official for a violation of this Code of Ethics or the imposition of discipline as set forth in this Code of Ethics that is administered against an elected official or appointed official because of an elected official's or appointed official's involvement in a protected activity as set forth in this Code of Ethics;</p> <p>(c) Retaliation against any individual or entity: Adverse action of any kind by a covered person against any individual or entity including, but not limited to, the refusal of services, threats of any kind including the threat of applying stricter requirements or restrictions or standards of any kind, monitoring with excessive visits, differential or discriminatory behavior of any kind, harassment, delay, changing deadlines or changing required standards of performance or conduct, or the initiation of investigations without a good faith cause that is taken because of the individual's or entity's involvement in a protected activity as set forth in this Code of Ethics.</p>
<u><i>Special Counsel/Inspector General</i></u>	Chief investigative officer for all alleged violations of the City of Evanston <u><a href="#">Code of Ethics-Public Employees Ethics Act</a></u> .
<i>Supervisor.</i>	An employee who has the authority to direct and control the work performance of another employee or who has authority to take corrective action regarding any violation of a law, rule or regulation.

**1-10-3.- REQUIREMENTS FOR FINANCIAL DISCLOSURE AND AFFILIATION.**

- (A) Disclosure of interest in real property. Each elected official, appointed official, director and coordinator shall file with the City Clerk, a statement disclosing any ownership interest in real property located within the corporate limits of the City by the elected official, appointed official, director or coordinator.  
The real property in which an elected official, appointed official, director or coordinator resides shall be exempt from the reporting requirements of this section, unless that property contains more than one residential unit.
- (B) Disclosure of business interests. Each covered person shall annually file with the City Clerk, a statement disclosing the ownership in or the employment by any business, firm, corporation or entity of any kind doing business with the City. This shall not include an interest in a publicly traded entity where the covered person holds less than one percent of the stock.
- (C) Disclosure of other employment. Each covered person shall file annually with the City Clerk, a statement specifying all employment for the previous calendar year of the person filing the statement. This statement shall include the name of the employing entity, the number of hours typically worked per week, the nature of the service performed in the course of such employment, and a statement of whether the services performed were connected in any manner to the individual's employment with the City or with City business.

This statement shall further disclose whether the covered person or covered person's employer performed any service or work for the [Cityvillage](#) for which the covered person was compensated. This shall not include compensation for work performed in the person's official capacity with the City.

- (D) Filing and disclosure.
1. All disclosure statements described in this section shall be filed with the City Clerk on or before July 1 of each calendar year, except as otherwise set forth in this Code of Ethics, or within sixty (60) days of a change in status. The City Manager or the Mayor and City Council shall have the authority to require more frequent filings.
  2. A person who is specially appointed as an officer, a person who is an appointed official, a person who is elected in a special election, and all newly hired employees shall have thirty (30) calendar days from election, appointment or date of hire to file the disclosures required by this section.
  3. Persons obligated to file disclosure statements pursuant to the laws of the state shall also file copies of such disclosure statements with the City Clerk.
  4. Any disclosure required by this City Code Section 1-10-3 shall include the disclosure of interests of the covered person's spouse, minor child and other members of the covered person's household.

#### 1-10-4.- CAMPAIGN CONTRIBUTION LIMITS.

- (A) Persons doing business with the City within the preceding four calendar years or persons seeking to do business with the City, may not contribute more than One Thousand Five Hundred Dollars (\$1,500.00) in a calendar year to any single candidate for an elected position.

#### **1-10-5.- REQUIREMENTS WITH RESPECT TO CONFLICTS OF INTEREST AND STANDARDS OF CONDUCT.**

- (A) Impartiality. All Employees shall perform his/her duties with impartiality and without prejudice or bias ~~for the benefit of all of the residents of the City in his/her service to the residents of the City of Evanston.~~ No Employees shall grant or make available to any ~~resident individual~~, including other covered persons, any consideration, treatment, advantage or favor beyond that which is available to every other ~~resident individual~~.
- (B) Recusal and abstention. When an elected official or appointed official must take official action on a legislative matter or in connection with their performance of City duties as to which they have a conflict of interest or as to which a reasonable person in their position would believe that there is an appearance of a conflict of interest created by a personal, family, client, legislative interest, or economic interest, they must disclose, in writing, to the ~~Special Counsel Inspector General~~ and to the ~~board, commission, or~~ City Council ~~on which the person is a member of, during an open session,~~ the existence of the potential conflict of interest. This official must then either eliminate the cause of the conflict of interest or, if that is not feasible, abstain from any direct or indirect official action relating to the matter including but not limited to participating in any discussion, debate or vote relating to the matter.
- It is understood that there are certain statutory conflicts of interest which may not be cured by recusal and abstention. Conflicts of interest such as are set forth in 65 ILCS 5/3.1-55-10 and 50 ILCS 105/3a may be cured only by resignation from office or as otherwise set forth in those statutes.
- (C) Prohibition against interests in City contracts and business: No covered person, whether paid or unpaid, shall have any direct or indirect interest in any contract, work or business with or of the City except as permitted by 65 ILCS 5/3.1-55-10 of the Illinois Municipal Code.
- (D) Prohibition against interests which are in conflict with or appear to be in conflict with the performance of official duties. No covered person shall directly or indirectly engage in any business or transaction or shall directly or indirectly have a financial or other personal interest in a business or transaction that is in conflict with or gives the appearance of being in conflict with the proper discharge of their official duties or that impairs or may give the appearance of impairing their independent judgment and/or independent action in the performance of his/her official duties. For purposes of this Section, "personal interest" shall include the financial interest of a spouse, minor child or other household member of the covered person.

- (E) Interest in a City approval. Each covered person having the power or duty to directly or indirectly perform an official act or action that is related to a City approval shall:
1. Disclose any direct or indirect interest in the City approval being sought;
  2. Disclose any direct or indirect interest in any business entity seeking the City approval or in any entity representing, advising or appearing on behalf of that business entity or person, whether paid or unpaid, in seeking the City approval;
  3. Not solicit, or discuss and or accept, while a covered person, an offer of present or future employment with a person or business entity seeking the City approval;
  4. Not encourage, make or engage in any ex parte or unilateral application or communication where a determination is to be made after a public hearing and if such communication is made, the contents of the communication shall be made part of the public record;
  5. Not directly or indirectly solicit, accept or grant a future gift, favor, service or anything of value from or to an entity or person seeking the City approval or from any person or entity who was expected to receive a material benefit, directly or indirectly on account of the City approval, except:
    - a. A one-time consumable non-pecuniary gift with a value of less than fifty dollars;
    - b. A non-pecuniary award publicly presented in recognition of public service.
- (F) Prohibited political activity:
1. No covered person shall intentionally require any employee to and no employee while on compensated time shall intentionally:
    - a. Use ~~of~~ any City property or resources in connection with any political activity;
    - b. Participate in any political activity for the benefit of any campaign for elective office or any political organization;
  2. No covered person shall intentionally:
    - a. Use the service of any employee by requiring performance by that employee of any political activity;
    - b. Require any political activity as a part of an employee's City duties or as a condition of continued City employment or advancement;
    - c. Require an employee, at any time, to participate in any political activity as consideration for the employee being awarded any additional compensation or employee benefit in the form of a salary adjustment, bonus, compensatory time, uncompensated approved leaves of absence, or as a condition of continued employment or advancement for that employee, or requiring such participation for any other reason;
    - d. Award an employee additional compensation or employee benefit(s), in the form of a salary adjustment, bonus, compensatory time off, uncompensated approved leaves of absence, continued

employment, advancement, or otherwise, as consideration for that employee's participation in any political activity;

- e. Require any other covered person to make any campaign contribution whether in money, in time, or through the provision of any goods or services in consideration for the continued employment or advancement of the covered person.
- (G) Pre-acquisition of interest. No covered person shall directly or indirectly acquire an interest in or an interest affected by any City approval at a time when the covered person knew or reasonably should have known that the acquired interest might be directly or indirectly affected by an official act or action of such covered person.
- (H) Appearances. No covered person shall appear on behalf of or against any private person before any City board or commission. This shall not include appearances on behalf of himself or herself, his or her spouse or minor child or other member of the person's household.
- (I) Disclosure and/or use of confidential information. No covered person shall, without proper legal authorization, directly or indirectly disclose confidential information concerning the property, government or affairs of the City or use such information to directly or indirectly advance the financial, personal or other private interest of the covered person or any other person or entity.
- (J) Public property. No covered person shall permit the use of or engage in the unauthorized use of City owned funds, vehicles, equipment, materials or property of any kind for political activity, personal convenience or profit or for any other matter not related to official City business. This prohibition shall apply irrespective of whether or not the public property is returned or reimbursed. This prohibition shall not apply to the use of non-powered traffic control items such as cones or other barricades used for civic events or block parties. [No political activity may take place on any City property or at any City Ward Meeting.](#)
- (K) Attorney restriction on representation. No attorney or law firm providing legal representation to the City, in any capacity, may represent any interest that is adverse to the interest of the City.

#### **1-10-65.- OFFICIAL MISCONDUCT.**

Covered person commits official misconduct when in his/her official capacity intentionally commits any one of the following acts:

- (A) Performs an act in excess of their lawful authority, with intent to obtain a personal benefit or advantage for himself, herself or for another person.
- (B) Solicits or knowingly accepts for the performance of any act in connection with their official duties any fee or reward which they know is not authorized by law and which is not part of his/her regular compensation for the performance of their official duties.
- (C) Knowingly performs an act that he/she knows he/she is forbidden by federal, state, or municipal law to perform.

- (D) Uses the prestige, power or influence of his/her office or employment to engage in any transaction which is, or would to a reasonable person appear to be, in conflict or incompatible with the proper discharge of his/her official duties, or which impairs, or would to a reasonable person appear to impair, the officer, appointed official or employee's independence of judgment or action in the performance of official duties. This prohibition shall extend to any use of official position or employment for a purpose that is or would to a reasonable person appear to be for the private benefit of the officer, appointed office, employee or any member of their family, rather than primarily for the benefit of the City.
- (E) Purchases, receives or accepts any financial interest in any sale to the City of any service or property.
- (F) Accepts a retainer or any form of compensation from any private interest that is expressly or implicitly contingent upon the occurrence of specific City action.
- (G) Represents any private interest in any transaction involving the City for twelve (12) months after his/her status as an elected official of the City terminates.
- ~~(G)~~(H) Violates the City's Healthy Work Environment Policy.

#### **1-10-76.- GIFT BAN.**

- (A)** Gift ban. Except as otherwise provided in this section, no covered person shall directly or indirectly solicit or accept any gift from any prohibited source in violation of any federal or state statute, rule or regulation or in violation of any 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 that is available on the same conditions as for the general public;
  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~~ the Special Counsel/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, entertainment or refreshments not exceeding one hundred fifty dollars (~~\$100.00~~~~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 or event 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~~ and (3) that the receipt of the food or refreshments is disclosed in writing to the Special Counsel/Inspector General within twenty four (24) hours after receipt of food and beverages the covered person keeps all receipts or tickets from the meeting or event for a period of at least two years. 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 covered person's supervisor and if that person is an elected or appointed official, the disclosure will be to the City Manager or his designee Special Counsel 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 Special Counsel Inspector General and informs the Special Counsel 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 Special Counsel 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.

#### **1-10-87.- WHISTLE BLOWER PROTECTION.**

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

#### **1-10-98.- 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. Any new employee, newly elected or newly appointed Covered Person must complete the ethics training within thirty (30) days of acceptance or swearing in of his/her new position. 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.

**1-10-109.- 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.

**1-10-11.- 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.
- ~~(D)~~(E) The City Manager will designate a Staff Liaison to provide ministerial assistance to the Board of Ethics. The Staff Liaison will prepare and post agendas and minutes, coordinate Board meetings and hearings, and provide any additional support necessary to the Board. A Staff Liaison may not be a member of the City's Law Department.

**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.- BOARD OF ETHICS SPECIAL COUNSEL ESTABLISHING THE OFFICE OF INSPECTOR GENERAL.**

- (A) The Board of Ethics Special Counsel ("Special Counsel")~~Office of Inspector General~~ is hereby established.
- (B) Special Counsel~~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. Special Counsel~~The Office of the Inspector General~~ will be administered through the City Manager's Office and an independent contractor.
- (C) Special Counsel~~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) Special Counsel~~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 1-10-164(D).

### **1-10-15.- INFORMAL ADVISORY OPINIONS.**

The Board may render an informal advisory opinion based on a real or hypothetical set of circumstances, when requested by a covered person. If a covered person submits a request or question to the Board for an informal advisory opinion, the Board must respond in writing. All requests to the Board for an informal advisory opinion are confidential. The Board may publish advisory opinions if guidance on a frequent issue is requested. The published informal advisory opinions must be redacted to remove any personal identifiers.

### **1-10-16.- 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 ~~Special Counsel/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 ~~of against~~ the ~~E~~ethics ~~C~~ode 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 ~~Special Counsel/Inspector General~~ via email to the complainant within seven (7) calendar days of receipt of the complaint.
- (C) The ~~Special Counsel/Inspector General~~ and Chair of the Board of Ethics shall make up the Advisory Panel. The Advisory Panel will make a preliminary jurisdictional determination as to whether the complainant has stated sufficient facts to constitute a violation of the Ethics Code. Jurisdiction will be determined if the complaint is alleged against a covered person and states allegations of a violation or violations of the Ethics Code. If the Advisory Panel determines that the complaint fails to state a violation of the ~~E~~ethics ~~C~~ode by a covered person, 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 for lack of jurisdiction. If the Board of Ethics determines that the complaint should be dismissed for lack of jurisdiction, the ~~Special Counsel/Inspector General~~ will communicate that finding to the complainant within seven (7) calendar days from the determination. and Neither the complaint nor jurisdictional 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 ~~Special Counsel/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 ~~E~~ethics ~~O~~rdinance 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 and the complainant. Within seven (7) business days from receipt of the opinion, the respondent or the complainant 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 the Special Counsel/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 and the complainant. Only if, and when, the respondent or the complainant objects to the final opinion, the City Council shall act as a Board of Appeals.

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

**1-10-17-1. - Creation of ethics 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.

**1-10-17-2. - 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.

**1-10-17-3. - 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.

**1-10-17-4. - 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.

**1-10-17-5. - 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;
- Respondent's case in chief;
- Examination of witness;
- Cross-examination of witness;
- Rebuttal;
- Closing remarks if requested by either party.

**1-10-17-6. - 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.

**1-10-17-7. - 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.

**1-10-17-8. - 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.

**1-10-17-9. - 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 [provisionsprocedures](#) shall preclude the City from seeking any remedies for Code violations through the use of any other administrative procedure or court proceeding.

**1-10-18.- 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, [the Board of Ethics](#) Final Opinion will be considered.
- (C) Any time prior to the issuance of the final opinion by the City Council, the Board of Ethics [may](#) amend the Opinion to address the allegations and penalties against the respondent ordered per Section 1-10-169. 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.

**1-10-19.- 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, fine or expulsion from a meeting. If an elected official, other than the Mayor, is the subject of the alleged ethical violation, the Mayor shall also have a vote on discipline. The Mayor and Alderman may not vote on discipline in which he or she is the subject of the alleged ethical violation. The City Council, may, where appropriate, discharge appointed officials. The City Council may not discharge an elected official. The fine may not be less than one hundred dollars (\$100.00) nor more than two thousand five hundred dollars (\$2,500.00).

- (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.

**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

DRAFT