

3/30/2021  
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**20-O-21**

**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.**

The purpose of this Chapter is to provide a Code of Ethics for the City of Evanston, establish a Board of Ethics and set forth an ethics complaint process.

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

<i>Appointed Official.</i>	Any member of a board or commission appointed by the Mayor or the City Council.
<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 <u>by the Corporate Authorities.</u>
<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 their 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 their 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>Complaint.</i>	The City of Evanston's Complaint and Inquiry Form which contains the name of the person alleging the violation of the Ethics Code, the name of the person accused and sets forth the specific act(s) of a Covered person alleged in violation of the Ethics Code. The Complaint shall include all facts personally known to the person filing the complaint that support the allegations. The Complaint and Inquiry Form must be signed and certified pursuant to 735 ILCS 5/1-109.
<i>Covered person.</i>	Unless otherwise stated or expressly limited, this shall mean every elected official, appointed official or employee of the City.
<u><i>Corporate Authorities</i></u>	<u>The Mayor and the City Council, when City Council is in session.</u>
<i>Director.</i>	Each City department head.
<i>Elected official.</i>	The Mayor, any member of the City Council chosen by the City electorate and any duly appointed member of the City Council and the City Clerk.
<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. An elected official is not an employee.
<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>	As defined by Title 11 Chapter 1, Section 7 of this Code.
<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 of a 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.
<i>Persons or entities doing business.</i>	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.
<i>Persons or entities seeking to do business.</i>	(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 <u>creation</u> creating of tax increment financing districts or concession agreements.
<i>Political organization.</i>	A political party, committee, association, fund, or other organization (whether or not incorporated) that is created to further the election of a candidate or in furtherance of a law, ordinance or referendum.
<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 request to disclose an activity, policy or practice that any covered person would reasonably believe 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

	<p>into any possible violation of a federal, state or City law, rule or regulation; or</p> <p>(c) Cooperation with or participation in any federal, state, or municipal proceeding to enforce the provisions of this Code of Ethics.</p>
<i>Public body.</i>	<p>(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;</p> <p>(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;</p> <p>(3) a municipal government, municipal agency or department, municipal committee, municipal judiciary, municipal official or employee, any municipal law enforcement agency or office; or</p> <p>(4) county, township, special districts, or other taxing entity.</p>
<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; or</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>
<i>Special Counsel</i>	<u>Counsel for Board of Ethics. Counsel for the investigation and prosecution of Ethics Complaints.</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.
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**1-10-3. - REQUIREMENTS FOR FINANCIAL DISCLOSURE AND AFFILIATION.**

- (A) Disclosure of interest in real property. Each elected official, appointed official, director and employee who staffs a board of commission, 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.
- (B) Disclosure of business interests. Each elected official, appointed official, director and employee who staffs a board of commission 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 elected official, appointed official, director and employee who staffs a board of commission shall file annually with the City Clerk, a statement specifying all employment for the previous calendar year of the person filing the statement and the person's spouse or cohabitating partner. 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 City 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. - REQUIREMENTS WITH RESPECT TO CONFLICTS OF INTEREST AND STANDARDS OF CONDUCT.**

- (A) Impartiality. All Employees shall perform their duties with impartiality and without prejudice or bias in their service to the residents of the City of Evanston. No Employee shall grant or make available to any individual, including other covered persons any consideration, treatment, advantage or favor beyond that which is available to every other 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 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, either in advance in writing, or verbally at the meeting at which such matter is to be entertained, to the Special Counsel 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. Any elected or appointed official must state the reason for abstention at the time they abstain. 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 their 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, including that of a spouse or cohabitating partner 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. Said communication only applies where a covered person is a member of a hearing body when the communication pertains to said hearing;
  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 one hundred dollars;
    - b. A non-pecuniary award publicly presented in recognition of public service.
- (F)** Prohibited campaign or political activity:
1. No covered person shall intentionally require any employee to and no employee while on compensated time shall intentionally:
    - a. Use any City property or resources in connection with any campaign or 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 campaign or political activity;
    - b. Require any campaign or 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 campaign or 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 campaign or 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 party before any City board or commission in which the covered person is a member thereof. This shall not include appearances on behalf of themselves, their 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.

#### **1-10-5. - OFFICIAL MISCONDUCT.**



A covered person commits official misconduct when in their 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 themselves 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 their regular compensation for the performance of their official duties.
- (C) Uses the prestige, power or influence of their office or employment to engage in any transaction or any activity, which is, or would appear to be, in conflict or incompatible with the proper discharge of their official duties, or which impairs, or would 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.
- (D) Purchases, receives or accepts any financial interest in any sale to the City of any service or property.
- (E) 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.
- (F) Represents any private interest in any transaction involving the City for twelve (12) months after their status as an elected official of the City terminates.
- (G) Disregards their fiduciary responsibilities to the Corporation, including but not limited to disclosure of confidential information to the public without prior unanimous approval of the Corporate Authorities.

**1-10-6. - 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 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;
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 their 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 a reasonable person would have 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 another 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 dollars (\$100.00) per person in value and at no time can food and refreshments exceed one hundred dollars (\$100.00) 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; and (2) that, in case of employees, 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. 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 their designee.

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

- (C) Disposition of banned 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 and informs the Special Counsel 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 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 or cause another to take any retaliatory action against any person because that person has engaged in Protected Activity. Any covered person with personal knowledge of a violation of this Code must report said violation to the Special Counsel in accordance with this Code.

#### **1-10-8. - ETHICS TRAINING.**

- (A) Ethics training: Beginning in 2020, each covered person must complete, on an annual basis, an ethics training program provided by the Law Department in conjunction with the Administrative Services Department. Any new employee, newly elected or newly appointed Covered Person must complete the ethics training within ninety (90) days of acceptance or swearing in of their 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 Rules Committee 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 Rules Committee 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 person 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. - FORMAL COMPLAINTS.**

Any person may file a formal ethics complaint in writing to the Special Counsel ~~by~~ within thirty (30) days after the alleged violation has occurred.

- (A) The complaint shall state the name of the person alleging the violation of the Ethics Code, the name of the person accused (respondent) and set forth the specific act or acts alleged to constitute a violation of the Ethics Code along with all facts known to the person filing the complaint that support the

complaint. Any complaint not submitted on the City's Complaint and Inquiry Form will be stricken.

- (B) An acknowledgment of receipt of the complaint shall be sent by the Special Counsel via email to the person filing the complaint and respondent within seven (7) calendar days of receipt of the complaint.
- (C) The City of Evanston is the petitioner for the purposes of this Chapter.
- (D) The Special Counsel shall make a preliminary jurisdictional determination as to whether sufficient facts exist to constitute a violation of the Ethics Code. Jurisdiction shall be determined if the Complaint is alleged against a covered person and states allegations of a violation or violations of the Ethics Code.
- (E) If the Special Counsel determines that there is no jurisdiction to prosecute a charge for a violation of the Code of Ethics pursuant to this Chapter, or determines that there is no cause to prosecute a violation of the Code of Ethics as set forth in 1-10-10(D) of this Chapter, then within sixty (60) days of receipt of the Complaint, the Special Counsel must file a written report with the City Manager Clerk and the City Council Board of Ethics, detailing why there is no jurisdiction or cause to prosecute a violation of the Code of Ethics. A copy of the report must be sent to the person making the complaint and the respondent.
- (F) If jurisdiction and cause to prosecute a violation of the Code of Ethics is determined by the Special Counsel, an Administrative Hearing shall be held in accordance with 1-10-11 of this Chapter.

#### **1-10-11. - SPECIAL COUNSEL.**

- (A) The Special Counsel must have demonstrable relevant experience in order to be considered for the appointment and the Special Counsel must be a licensed member, in good standing, of the Illinois Bar, at the time of appointment and for the duration of their term.
- (B) Special Counsel shall be appointed by the Mayor with the consent of the City Council and will have duties as outlined in this Chapter. Special Counsel will be administered through the City Manager's Office and shall be an independent contractor of the City.
- (C) To receive and register complaints and information concerning alleged violations of the Code of Ethics.
- (D) To investigate the performance of covered persons in response to complaints in order to detect and prevent misconduct of the Code of Ethics. In the event Special Counsel's investigation brings to light different facts than alleged in the

Complaint, Special Counsel is authorized to amend the Complaint to conform with the facts as discovered in the investigation.

- (E) To request information related to an investigation, audit or program review from any covered person.
- (F) To prosecute at Administrative Hearings, at his / her discretion, in the course of any activity conducted pursuant to this Chapter an investigation hereunder.
- (G) To issue summons to respondents and subpoenas and to call witnesses at the Administrative Hearing at the discretion of the Administrative Hearing Officer and to compel the attendance of witnesses for purposes of examination and the production of documents and other items for inspection and/or duplication.
- (H) To respond to subpoenas and Freedom of Information Act requests associated with this Title of the City Code.
- (I) Recommend to the Mayor, City Manager and City Council policies and methods for the elimination of inefficiencies and waste in resources and the prevention of misconduct.

#### **1-10-12. ADMINISTRATIVE HEARINGS AND ETHICS CODE VIOLATIONS.**

- (A) The hearing shall be led by the Hearing Officer and shall include a review of all evidence presented by the City through the Special Counsel, including all relevant documents, records and witness testimony.
- (B) Notice of the hearing shall be posted no less than forty-eight (48) hours prior to the hearing on the City's website.
- (C) Within seven (7) days of the hearing, the Hearing Officer shall issue a written finding, which shall include findings of fact, the identification of the specific Ethics Code provision that was allegedly violated, ~~and~~ an opinion based upon the factual findings as to whether the alleged violation is sustained, and a recommendation regarding a fine. Written orders will be posted on the City's website and shall be emailed to the respondent by Special Counsel by the Hearing Officer. Special Counsel will then ~~send~~ transmit the written findings and entire record of proceedings to the Board of Ethics.

#### **1-10-13. – ADMINISTRATIVE HEARING PROCEDURES FOR ETHICS CODE VIOLATIONS**

Title 11, Chapter 1 of the City Code shall govern the procedure for Administrative Hearing Procedures for Ethics Code violations in so far as there is no conflict between this Title and Title 11. In the event of a conflict between titles, this title shall govern for

the purposes the administrative procedure for Ethics Code violations. The City shall not bear the cost or expense associated with the representation of any Covered Person in any hearing under this Code. If a finding of not liable is entered against a Covered Person, the City will reimburse the cost and expense associated with representation of a Covered Person for that alleged violation.

**1-10-14. - 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 three (3) members appointed by the Mayor with the consent of the City Council.
- (B) Three (3) voting members shall be appointed to the Board of Ethics by the Mayor with the advice and consent of the City Council for a term of two (2) years. Each member of the Board of Ethics may not serve more than two (2) year terms. 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, who have no contractual relationship with the City, who preferably have a legal background or prior legal training, and who have demonstrated the ability to use critical thinking and analytic skills. 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 of each year, the Board of Ethics shall elect a Chair and 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. The Board of Ethics shall also elect a Secretary. The Secretary will be tasked with preparing and posting all agendas and taking minutes of all meetings.

**1-10-15. - CALL OF MEETING.**

The Board of Ethics shall only meet upon receipt of written findings from an Administrative Hearing for an alleged violation of the Ethics Code, as necessary. The 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.

**1-10-16. - POWERS AND DUTIES.**

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

- (A) Within sixty (60) days after the Hearing Officer issues a written opinion and findings, the Board shall meet to review the opinion and findings and either affirm or reverse the findings;

- (B) The Board of Ethics shall review the transcript of the hearing and the evidence presented;
- (C) Upon review, the Board will issue a written order affirming or reversing the findings;
- (D) A decision by the Board of Ethics is considered a final administrative decision pursuant to the Illinois Administrative Review Act; 735 ILCS 5/3-101 et seq.;
- (E) The Board of Ethics may adopt such rules as it deems necessary for the conduct of its business; and
- (F) The Board of Ethics shall only consider the evidence presented at Administrative Hearings. No new evidence shall be considered. Should the Board of Ethics determine further evidence should be considered, the Chair shall enter a written order remanding the matter to Administrative Hearings for further consideration;
- (G) Upon entry of a final order by the Board of Ethics wherein a violation of this Code is sustained, the Special Counsel may refer a final finding of a violation of Section 1-10-3(D) and Section 1-10-5 of this Code to the Cook County State's Attorney's Office in accordance with 5 ILCS 430/1-1 et seq.

#### **1-10-17. - PENALTIES.**

- (A) Any person violating the provisions of this Title shall be guilty of an offense punishable of a fine not less than one hundred dollars (\$100.00) nor more than seven hundred fifty dollars (\$750.00). The fine will be due thirty (30) days after issuance.
- (B) Members of City Council found in violation of this Chapter may be disciplined by City Council in accordance with City Council Rules. Nothing herein this Chapter shall prevent the City Manager or his/her designee from taking disciplinary action pursuant to the personnel rules and/or collective bargaining agreements as deemed appropriate.

**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-21 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: March 30, 2021

Adopted: September 27, 2021

Approved:  
9/29/21, 2021

*Daniel Biss*  
Daniel Biss, Mayor

Attest:  
*Stephanie Mendoza*  
Stephanie Mendoza, City Clerk

Approved as to form:  
*Nicholas E. Cummings*  
Nicholas E. Cummings, Corporation Counsel