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54-O-04

AN ORDINANCE

**Amending Title 1, Chapter 10 of the City Code
Regarding "Prohibited Political Activities" and "Gift Bans" and
Restating the City's Ethics Ordinance**

WHEREAS, the Illinois General Assembly has enacted the State Officials and Employees Ethics Act (Public Act 93-615, effective November 19, 2003, as amended by Public Act 93-617, effective December 9, 2003) ("the Act"), which is a comprehensive revision of State statutes regulating ethical conduct, political activities and the solicitation and acceptance of gifts by State officials and employees; and

WHEREAS, the Act requires all units of local government to adopt ordinances regulating the political activities of, and the solicitation and acceptance of gifts by, the officers and employees of such units "in a manner no less restrictive" than the provisions of the Act; and

WHEREAS, it is the clear intention of the Act to require units of local government to implement regulations that are at least as restrictive as those contained in the Act, and to impose penalties for violations of those regulations that are equivalent to those imposed by the Act, notwithstanding that such penalties may exceed the general authority granted to units of local government to penalize ordinance violations; and

WHEREAS, it is the clear intention of the Act to provide units of local government with all authority necessary to implement its requirements on

the local level regardless of any general limitations on the power to define and punish ordinance violations that might otherwise be applicable;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: That Title 1, Chapter 10 of the Evanston City Code of 1979, as amended, be and it hereby further amended to read as follows:

Section 1-10-1: ESTABLISHMENT OF BOARD OF ETHICS: There is hereby established the Evanston Board of Ethics, which shall consist of five (5) members appointed by the Mayor with the advice and consent of the City Council to terms of three (3) years. The Mayor shall designate the chairman. (Ord. 30-O-95).

Section 1-10-2: PURPOSE: The purpose of the Board of Ethics shall be as follows:

- (A) To secure and maintain financial disclosure and affiliation statements from those persons required to file such a statement;
- (B) To develop and recommend to the City Council a Code of Ethics applicable to public officials;
- (C) To evaluate, make findings of fact and issue advisory opinions for the City Council on questions of possible unethical conduct or conflict of interest. When the possible unethical conduct or conflict of interest concerns the prohibited political activities or gift ban provisions of this Code, the Board may recommend to the City Council that the matter be referred to the Law Department for appropriate action pursuant to 5 ILCS 430/1-1, *et seq.* Such deliberations may be initiated by the Board or upon request, given due cause.
- (D) To consider related issues in addition to references from the City Council; and
- (E) To develop rules and procedures to govern its own conduct of business.

The Board of Ethics shall report to the Rules Committee of the City Council, as needed, or at least annually. (Ord. 59-O-01).

Section 1-10-3: FINANCIAL DISCLOSURE AND AFFILIATION STATEMENT:

- (A) All elected officials, the City Manager, the Assistant City Manager, department heads and members and executive staff of all boards, commissions,

special committees, and those persons holding other positions designated by the City Council or the City Manager, shall annually on May 1st submit a signed and notarized financial disclosure and affiliation statement.

Said statement shall be submitted to the City Clerk by those required to submit same prior to their taking office or being seated as a member of the pertinent boards or commissions, and thereafter annually on May 1 during their tenure with the City. Disclosure statements shall be destroyed annually upon receipt of a newly filed statement or no later than the May 1 following the completion of a term of service. In the event any substantial change or addition occurs with respect to the information required in the disclosure statement, an amendment to the statement shall be filed within fifteen (15) business days. (Ord. 59-O-01).

(B) Persons required to submit a financial disclosure and affiliation statement shall answer the following questions on a form to be supplied by the City Clerk:

(1) The addresses of all Evanston real estate or the titles of land trusts, of which you and/or your spouse or any relative living with you have a financial ownership or interest, and a listing of that Evanston real estate for which zoning and rezoning applications are pending.

(2) The name(s) of any entity(ies) doing business with the City of Evanston or the Township of the City of Evanston in which you and/or your spouse or any relative living with you are employed or from which you receive income, including pension or retirement income, except for social security payments.

(3) The name(s) of any entity(ies) doing business with the City of Evanston or the Township of the City of Evanston in which you and/or your spouse or any relative living with you have an element of ownership or have an investment having a fair market value in excess of five thousand dollars (\$5,000.00), excepting any investment in securities traded on a recognized exchange with a fair market value of twenty thousand dollars (\$20,000.00) or less on the date of filing.

(4) The name(s) of those organizations and/or institutions that receive funds or direct services from the City in which you or your spouse or any relative living with you are an employee, officer, Board member or trustee.

(5) The nature of any professional or occupational licenses or franchises issued by the City of Evanston to you, your spouse, or any relative living with you.

(6) A statement of whether you, your spouse, or any relative living with you owns property, receives any gifts or income or has any economic interest or association which creates or could give rise to a conflict of interest.

(7) The name, (and) address and nature of the business of the employer of you and/or your spouse or any relative living with you.

(8) A statement that the signing officer or employee has read the Code of Ethics and that the information provided in the financial disclosure and affiliation statement is true, correct and complete to the best of his/her knowledge. (Ord. 1-O-84).

(C) The disclosure statements of elected officials and the City Manager will be maintained on file with the City Clerk and the Board of Ethics. Statements are available for review by the general public upon specific request to the City Clerk during regular business hours. When a request for viewing of an ethics statement is made, the person whose ethics statement is requested shall be notified and the person viewing his or her statement named.

(D) The disclosure statements of all members of boards, commissions and committees shall be filed, reviewed, and maintained in confidence by the Board of Ethics. (Ord. 20-O-78; amd.).

(E) The disclosure statements of the Assistant City Manager, department heads, executive staff of boards, commissions and committees shall be filed, reviewed and maintained in confidence by the City Manager. Upon request, the Board of Ethics may review in confidence these statements. (Ord. 20-O-78 amd. and Ord. 59-O-01).

Section 1-10-4: CODE OF ETHICS:

(A) **Statement of Purpose of Policy:** It is the policy of the City that in all cases its elected and appointed officers and employees perform their duties for the benefit of the citizens of the City. They shall conduct the affairs of the City with integrity and impartiality, without allowing prejudice, favoritism or the opportunity for personal gain to influence their decisions or actions or to interfere with serving the public interest. Further, it is the policy of the City that spouses and immediate family members living with the officer or employee comply with the gift ban provisions of this Code.

Continuing observance of this policy is essential to maintaining the public trust necessary for good government. The City Council is therefore adopting this Code of Ethics to establish guidelines for an ethical standard of conduct for individuals covered by this Code, and to ensure compliance with those guidelines.

The standards of this code are intended to supplement and comply with the provisions regarding municipal officers in 65 Illinois Compiled Statutes and

50 Illinois Compiled Statutes 105/1, *et seq.*, and any other state statutes or ordinances of the City relating to ethical conduct for City officers and employees.

The obligations of this Code shall not be limited to the provisions of the state statutes specified herein, nor shall the failure to include in this Code any provisions of a state statute release officers and employees of the City and other covered individuals from obligations, responsibilities and penalties imposed by state law.

This Code is not to be construed so as to impair the ability of City officers and employees to participate in ceremonial, representational, or informational functions in the performance of their official duties.

(B) **Persons Covered by this Code:** The provisions of this Code shall apply to any officer or employee of the City, whether elected or appointed, paid or unpaid, including members of boards and commissions appointed by the Mayor or City Council. In addition to the foregoing persons, Section 1-10-4(C)5 of this Chapter relating to the gift ban shall apply to the spouse and immediate family members living with any officer or employee. The term "officer" applies throughout this Code to members of boards and commissions appointed by the Mayor or City Council as well as to other municipal officers.

The City Manager may promulgate rules and regulations for City employees in addition to the provisions of this Code.

(C) **Standards of Conduct:** Every officer or employee of the City shall be subject to and abide by the following standards of conduct:

(1) **Impartiality:** Every officer and employee shall perform his duties with impartiality and without prejudice or bias for the benefit of all citizens of the City. No officer or employee shall grant or make available to any citizen any consideration, treatment, advantage or favor beyond that which is available to every other citizen.

(2) **Use of Public Property:** No officer or employee shall request or permit the unauthorized use of City-owned vehicles, equipment, materials or property for personal convenience or profit.

(3) **Conflict of Interest:** No officer or employee shall engage in any business or transaction or shall have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his official duties in the public interest or which may tend to impair his independence of judgment or action in the performance of his official duties. Personal, as distinguished from financial interest, includes an interest arising from blood or marriage relationships or close business or political association. A business transaction, or financial or

personal interest which is within the exceptions to the gift ban provisions of Section 1-10-4(C)5 does not violate the Code.

Examples of prohibited conflicts of interest are:

(a) **Disclosure of Confidential Information:** No officer or employee shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the City. Nor shall he use such information to advance the financial or other private interests of himself or others.

(b) **Abuse of Power of Office:** No officer or employee shall use the prestige or power of his office or employment for his private gain or for the private gain of another. (Ord. 3-O-81).

(c) **Representing Private Interest Before City Bodies or Courts:** No employee or elected officer shall appear on behalf of private interests before any body of the City in a manner calculated to leave the impression that he/she is speaking for the City of Evanston, or acting on behalf of the City of Evanston when he/she is not authorized to do so. Any person so appearing shall indicate affirmatively that he/she is speaking in an individual capacity or as a representative of an organization or group other than the City. Nor shall any employee or elected officer represent private interests in any action or proceeding against the interests of the City in any litigation, administrative proceeding, or other type of adjudicative proceeding to which the City is a party. Nor shall he accept a retainer or compensation that is contingent upon a specific action by a City body. Except as may be provided for in the rules and organization of the City Council, a Council member may appear without receiving additional compensation therefor, on behalf of constituents in the course of his duties as a representative of the electorate or in the performance of public or civic obligations. And an officer or employee may appear on behalf of himself, his spouse, or minor children before any City body or branch of the circuit court. An employee may also represent other employees in personnel matters, as provided in the City's personnel code and civil service rules.

(d) **Preacquisition of Interest:** No public officer or employee shall acquire an interest in or be affected by any contract or transaction at a time when the officer or employee believes or has reason to believe that the contract or transaction will directly or indirectly be affected by an official act or action of the City.

(e) **Incompatible Employment:** No public officer or employee shall engage in or accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his official duties.

Section 1-10-4(C)4: PROHIBITED POLITICAL ACTIVITIES:**(A) Definitions:**

(1) **“Campaign for elective office”** means any activity in furtherance of an effort to influence the selection, nomination, election, or appointment of any individual to any federal, State, or local public office or office in a political organization, or the selection, nomination, or election of Presidential or Vice-Presidential electors, but does not include activities:

(i) relating to the support or opposition of any executive, legislative, or administrative action,

(ii) relating to collective bargaining, or

(iii) that are otherwise in furtherance of the person's official duties.

(2) **“Candidate”** means a person who has filed nominating papers or petitions for nomination or election to an elected office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at a regular election, as defined in Section 1-3 of the Election Code (10 ILCS 5/1-3).

(3) **“Collective bargaining”** has the same meaning as that term is defined in Section 3 of the Illinois Public Labor Relations Act (5 ILCS 315/3).

(4) **“Compensated time”** means, 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, but for purposes of this Chapter, does not include any designated holidays, vacation periods, personal time, compensatory time off or any period when the employee is on a leave of absence. With respect to officers or employees whose hours are not fixed, “compensated time” includes any period of time when the officer or employee is on premises under the control of the employer and any other time when the officer or employee is executing his or her official duties, regardless of location.

(5) **“Compensatory time off”** means authorized time off 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 his or her employment.

(6) **“Contribution”** has the same meaning as that term is defined in Section 9-1.4 of the Election Code (10 ILCS 5/9-1.4).

(7) **“Employee”** means a person employed by the City, whether on a full-time or part-time basis or pursuant to a contract, whose duties are subject to the direction and control of the City with regard to the material details of how the work is to be performed, but does not include an independent contractor.

(8) **“Employer”** means the City of Evanston.

(9) **“Leave of absence”** means any period during which an employee does not receive:

- (i) compensation for employment,
- (ii) service credit towards pension benefits, and
- (iii) health insurance benefits paid for by the City.

(10) **“Officer”** means a person who holds, by election or appointment, an office created by statute or ordinance, regardless of whether the officer is compensated for service in his or her official capacity.

(11) **“Political activity”** means any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities:

- (i) relating to the support or opposition of any executive, legislative, or administrative action,
- (ii) relating to collective bargaining, or
- (iii) that are otherwise in furtherance of the person's official duties.

(12) **“Political organization”** means 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 Section 9-3 of the Election Code (10 ILCS 5/9-3), but only with regard to those activities that require filing with the State Board of Elections or County Clerk.

(13) **“Prohibited political activity” means:**

(a) Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event.

(b) Soliciting contributions, including but not limited to the purchase of, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event.

(c) Soliciting, planning the solicitation of, or preparing any document or report regarding anything of value intended as a campaign contribution.

(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.

(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.

(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.

(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.

(h) Initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question.

(i) Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.

(j) Preparing or reviewing responses to candidate questionnaires in connection with a campaign for elective office or on behalf of a political organization for political purposes.

(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.

(l) Campaigning for any elective office or for or against any referendum question.

(m) Managing or working on a campaign for elective office or for or against any referendum question.

(n) Serving as a delegate, alternate, or proxy to a political party convention.

(o) Participating in any recount or challenge to the outcome of any election.

(14) **“Prohibited source”** means any person or entity who:

(a) Is seeking official action:

(i) by an officer, or

(ii) by an employee, or by the officer or another employee directing that employee;

(b) Does business or seeks to do business:

(i) with the officer, or

(ii) with an employee, or with the officer or another employee directing that employee;

(c) Conducts activities regulated:

(i) by the officer, or

(ii) by an employee, or by the officer or another employee directing that employee; or

(d) Has interests that may be substantially affected by the performance or non-performance of the official duties of the officer or employee.

(e) Is required to be registered with the Secretary of State under the Lobbyist Registration Act, except that an entity does not become a prohibited source merely because a registered lobbyist is one of its members or serves on its board of directors.

(B) Engaging in Prohibited Political Activity:

(1) No officer or employee shall intentionally perform any prohibited political activity during any compensated time, as defined herein. No officer or employee shall intentionally use any property or resources of the City in connection with any prohibited political activity. No employee shall use the prestige of his or her position on behalf of any political party or for any political purpose.

(2) At no time shall any officer or employee intentionally require any other officer or employee to perform any prohibited political activity:

- (i) as part of that officer's or employee's duties,
- (ii) as a condition of employment, or
- (iii) during any compensated time off such as holidays, vacation, or personal time off.

(3) No officer or employee shall be required at any time to participate in any prohibited political activity in consideration for that officer or employee being awarded additional compensation or any benefit, whether in the form of a salary adjustment, bonus, compensatory time off, continued employment or otherwise, nor shall any officer or employee be awarded additional compensation or any benefit in consideration for his or her participation in any prohibited political activity. No appointment to or employment in any City position shall be dependent on political activity.

(4) Nothing in this Section prohibits activities that are permissible for an officer or employee to engage in as part of his or her official duties, or activities that are undertaken by an officer or employee on a voluntary basis which are not prohibited by this Ethics Code.

(5) No person either:

(i) in a position that is subject to recognized merit principles of public employment, or

(ii) in a position the salary for which is paid in whole or in part by federal funds and that is subject to the Federal Standards for a Merit System of Personnel Administration applicable to grant-in-aid programs shall be denied or deprived of employment or tenure solely because he or she is a member or an officer of a political committee, of a political party, or of a political organization or club.

Section 1-10-4(C)5: PROHIBITED SOLICITATION AND

ACCEPTANCE OF GIFTS:

(A) **Gifts:** For purposes of this Ethics Code, "Gift" means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to government employment or the official position of an officer or employee.

(B) **Gift Ban:** Except as permitted by this Code, no officer or employee, and no spouse of or immediate family member living with any officer or employee shall intentionally solicit or accept any gift from any prohibited source, as defined in Section 1-10-4(C)4(A)14, or which is otherwise prohibited by law or ordinance. No prohibited source shall intentionally offer or make a gift that violates this Section 1-10-4(C)5.

(C) **Exceptions:** The gift ban prohibition in Subsection (B) of this Section and in the conflict of interest provision of Section 1-10-4(C)3 is not applicable to the following:

(1) Opportunities, benefits, and services that are available on the same conditions as for the general public.

(2) Any:

- (i) contribution that is lawfully made under the Election Code, or

- (ii) activities associated with a fundraising event in support of a political organization or candidate.

(3) 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.

(4) Any gift¹ thing provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient or his or her spouse or immediate family member and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as:

- (i) 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,

¹ The State Act prohibits "anything provided..."

(ii) whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift, and

(iii) whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees, or their spouses or immediate family members.

(5) Food, refreshments, lodging, transportation, and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of an officer or employee) of the officer or the spouse of the officer or the employee, if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances.

(6) Bequests, inheritances, and other transfers at death.

(7) Anything for which the officer or employee or his spouse or immediate family member living with the officer or employee pays the market value.

(8) Educational materials and missions.

(9) Travel expenses for a meeting to discuss City business.

(10) Food refreshments not exceeding \$75.00 (seventy-five and no/100 dollars) per person in value on a single calendar day; provided that the food or refreshments are:

(i) consumed on the premises from which they were purchased or prepared, or

(ii) catered. For the purposes of this Section, "catered" means food or refreshments that are purchased ready to eat and delivered by any means.

(11) Intra-governmental and inter-governmental gifts. For the purposes of this Section, "intra-governmental gift" means any gift given to an officer or employee of the City from another officer or employee of the City; and "inter-governmental gift" means any gift given to an officer or employee of the City by a member, officer, or employee of a State agency, a federal agency, or of any governmental entity.

(12) Any item or items from any one prohibited source during any calendar year having a cumulative value of less than \$100.00 (one hundred and no/100 dollars).

Each of the exceptions listed in this Section is mutually exclusive and independent of every other.

(D) **Disposition of Gifts:** An officer or employee, his or her spouse or an immediate family member living with the officer or employee does not violate the State Officials and Employees Ethics Act ("the Act") if the recipient promptly takes action to return a gift from a prohibited source. An officer or employee, or his or her spouse or immediate family member living with the employee or officer, does not violate The Act if the recipient promptly takes reasonable action to return the prohibited gift to its source, or gives the gift or an amount equal to its value 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.

(E) Notwithstanding the above exceptions to the Gift Ban, any policy promulgated by the City Manager, or any rule or collective bargaining agreement regarding the receipt of gifts by City employees which is more restrictive than the State Act shall supercede said exception.

Section 1-10-4(C)6: DISCLOSURE OF FINANCIAL INTEREST:

(A) **Financial Interest:** No officer or employee shall have any financial interest in any business or transaction with any board, commission, committee or public body of the City unless, as provided in 65 Illinois Compiled Statutes 5/3-14-4, that officer or employee discloses the nature and extent of such interest and refrains from voting upon the resolution of the business or transaction.

(B) **Financial Disclosure Statement:** All elected officials, the City Manager, the Assistant City Manager, department heads, members and executive staff of all boards, commissions, special committees and those persons holding other positions designated by the City Council or the City Manager shall submit annually the signed and notarized financial disclosure and affiliation statement required by Section 1-10-3 of this Chapter, as amended. (Ord. 3-O-81, amd., and Ord. 59-O-02).

Section 1-10-4(D): ADMINISTRATION OF CODE:

(1) The Board of Ethics established pursuant to Section 1-10-1 of this Ethics Code, shall be responsible for interpreting and proposing revisions to the Code of Ethics.

(2) When any officer or employee of the City wishes to have advice on the applicability of any provision of this code to a particular situation, or an interpretation of terms used in this code, he/she may apply to the Board of Ethics for an advisory opinion. Requests shall be in writing and shall contain a

summary of pertinent facts. The Board of Ethics may also initiate investigations of the conduct of persons subject to the Code.

(3) The Board of Ethics will consider matters only in accordance with rules and procedures enacted in conformity with this Chapter. These rules shall require that any person desiring to make a complaint of ethical misconduct against persons subject to the Code, the City shall make the complaint in writing and under oath, on a form prescribed and made available to the public by the Law Department. No such complaint of official misconduct that fails to include the following will be considered by the Board:

(a) Name, address and phone number of complainant(s).

(b) Name and position, as applicable, of respondent officer, employee, or other person subject to this Code, if an officer or employee.

(c) Nature of alleged ethical misconduct.

(d) A detailed description of the evidence known to complainant establishing the ethical misconduct. All documentary evidence supporting the complainant's charges shall be attached to the complaint.

(e) The Board of Ethics shall request each complainant to maintain the confidentiality of the fact of filing the complaint by inserting the following language in the complaint form:

To protect confidentiality, I have been requested to not disclose the fact of filing the complaint unless and until the Board of Ethics informs the Complainant in writing that the Board has concluded that it has jurisdiction to conduct an investigation of the charges and intends to do so.

(f) The complaint form shall contain this statement:

This complaint will not be considered by the Ethics Board unless first filed with the Law Department.

(4) Within fourteen (14) days of receipt of a complaint of ethical misconduct as above described, the Law Department, after making an appropriate inquiry, shall issue a confidential written advisory report containing findings and conclusions as to each of the following questions:

(a) Is or was the respondent a person subject to the Code as defined herein at the time of the alleged ethical misconduct?

(b) Is the ethical misconduct complained of covered by the Ethics Code?

(5) The report of the Law Department shall be sent by prepaid receipted delivery to each member of the Board of Ethics and to the complainant within fourteen (14) days of the filing of the complaint with the Law Department. The Board shall consider said report and the findings and conclusions therein in executive session at a meeting no later than at its next regularly scheduled meeting. If the Board finds that it has no jurisdiction, it shall send a copy of its decision to the complainant within two (2) business days of such finding. If the Board finds that it has jurisdiction and will commence an investigation of the charges set forth therein, or any parts thereof, the Law Department shall, within two (2) business days of the finding, notify respondent of the charges then pending against him/her by prepaid receipted delivery and enclose a copy of the complaint. The Law Department also shall notify both parties of the date and time when the complaint will be considered by the Board of Ethics; and shall enclose a copy of the report, a copy of the Ethics Code, the Board's regulations and rules of procedure, and all documents provided to the Board by the Law Department in connection with this matter.

(6) Within thirty (30) days of receipt of the complaint sent by the Law Department to the respondent or within five (5) days before the date of initial Board consideration, whichever is later, the respondent shall at his or her option be accorded the opportunity of presenting to the Law Department for distribution to Board members the respondent's interpretation of the facts and legal and factual defenses to the charges.

(7) As more fully set forth in its procedures, the Board may request additional information from other persons, may hold a hearing or hearings if it determines such to be necessary, and shall render a written opinion setting forth its conclusions with respect to each request for an opinion or each investigation it initiates. Whenever the Board of Ethics finds it necessary to conduct a hearing in order to secure pertinent information, or whenever any person whose conduct is subject to investigation demands a hearing, such a hearing shall be arranged. Such a hearing shall be public, unless the Board determines, upon the request of any affected party or upon its own motion, that the hearing shall be in executive session. The members of the Board shall conduct the hearing unless the Board concludes it is appropriate to appoint some other person as a hearing officer to conduct the hearing and make recommendations to the Board. At any such hearing, the presiding officer shall have the power to administer oaths and affirmations and compel attendance of persons and production of books, documents, papers, accounts, letters and records by subpoena. Any person who appears before the Board at a hearing shall have the right to be represented by counsel. The members of the Board or the hearing officer shall examine any witnesses. The Board may also permit examination or cross examination by counsel for the affected parties. At any hearing, the Board or hearing officer shall

not be bound by the rules of evidence, but may hear and consider any evidence it considers to have probative value on the issues before it.

(8) If the complaint is deemed sufficient to allege a violation of the prohibited political activities or gift ban provisions of the Code, the Board shall notify in writing the Law Department and shall transmit to the Law Department the complaint and all additional documents in the custody of the Board concerning the alleged violation. In making its determination as to sufficiency of the complaint, the Board may utilize the procedure set forth in Section 1-10-4(D)(7).

(a) A violation of Section 1-10-4(C)4 (prohibited political activities) of this Chapter may be prosecuted as a criminal offense by an Attorney for the City by filing in the Circuit Court an information, or sworn complaint, charging such offense. The prosecution shall be under and conform to the rules of criminal procedure. Conviction shall require the establishment of the guilt of the defendant beyond a reasonable doubt.

(b) A violation of Section 1-10-4(C)5 (relating to the gift ban) of this Chapter may be prosecuted as a quasi-criminal offense by an Attorney for the City.

(9) A written report of any action taken with respect to any person found to have violated the Code of Ethics shall be made to the Board of Ethics by the appropriate City authority within thirty (30) days after receipt of the Board's advisory opinion. Upon receipt of such a report, or if no report is made as provided herein, the Board shall review the matter and make any further recommendations it deems suitable.

SECTION 1-10-4(E): SANCTIONS AND PENALTIES:

(1) A person who intentionally violates any provision of Section 1-10-4(C) (prohibited political activities) of this Chapter may be punished by a term of incarceration in a penal institution other than a penitentiary for a period of no more than three hundred and sixty-four (364) days, and may be fined in an amount not to exceed \$2,500 (two thousand five hundred and no/100 dollars).

(2) A person who intentionally violates any provision of Section 1-10-4(C)5 (gift ban) of this Chapter is subject to a fine in an amount of not less than \$1,001 (one thousand one and no/100 dollars) and not more than \$5,000 (five thousand and no/100 dollars).

(3) Any person who intentionally makes a false report alleging a violation of any provision of Section 1-10-4(C) (prohibited political activities) or Section 1-10-4(C)5 (gift ban) of this Chapter to the local enforcement authorities, the State's Attorney, or any other law enforcement official is guilty of a Class A

misdemeanor and may be punished by a term of incarceration in a penal institution other than a penitentiary for a period of not more than three hundred and sixty-four (364) days, and may be fined in an amount not to exceed \$2,500 (two thousand five hundred and no/100 dollars).

(4) In addition to any other penalty that may be applicable, whether criminal or civil, an officer or employee who intentionally violates any provision of this Code may be subject to censure, suspension, removal from office or employment or other disciplinary action, as determined by the appropriate City authority.

SECTION 1-10-4(F): DISTRIBUTION OF CODE:

Copies of the Code of Ethics shall be distributed to all present City officers and employees, as well as to all new employees and officers when they begin their service to the City. (Ord. 1-10-54).

SECTION 1-10-5(A): INTERPRETATION:

1-10-5(A): INTERPRETATION: It is the intent of the City that the provisions of this Chapter shall be substantially in accordance with the requirements of Section 5-15 and Article 10 of the State Officials and Employees Ethics Act. To the extent that Section 5-15 and Article 10 of the State Officials and Employees Ethics Act may be more restrictive than the requirements of this Chapter, the provisions of Section 5-15 and Article 10 of the State Officials and Employees Ethics Act shall apply and control.

SECTION 1-10-5(B): FUTURE AMENDMENTS:

Any amendment to the State Officials and Employee Ethics Act, Public Act 93-615 as amended by Public Act 93-617 and applicable to units of local government, that becomes effective after the passage of Ordinance 54-O-04 shall be incorporated in this Section by reference. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Section by reference without formal action by the City Council. (Ord. 92-O-99 and Ord. 1-10-54).

SECTION 1-10-6: SEVERABILITY:

If any provision, clause, sentence, paragraph, section, or part of this Chapter, or application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair, or invalidate the remainder of this Chapter and the application of such provision to other persons or circumstances, but shall be confined in its operation to the provision, clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such

judgment shall have been rendered and to the person or circumstances involved. It is hereby declared to be the legislative intent of the City Council that this Chapter would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section or part thereof not been included.

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

SECTION 3: That this ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: December 13, 2004

Adopted: January 24, 2005

Approved:

January 25, 2005
Lorraine H. Morton
Lorraine H. Morton, Mayor

Attest:

Mary P. Morris
Mary P. Morris, City Clerk

Approved as to form:
[Signature]
Corporation Counsel

