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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.

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>Advisory Panel.</i>	Board of Ethics Chair and Special Counsel.
<i>Appointed Official.</i>	Any member of a board or commission appointed by the Mayor or the City Council.
<i>Board of Ethics Chair.</i>	Board of Ethics Chair will act as a Hearing Officer whose duty it is to: (1) - Preside at a hearing called to determine whether or not a Code violation exists; (2) Hold conferences between the parties for the settlement or simplification of the issues; (3) Administer oaths; (4) Accept evidence from all interested parties relevant to the existence of a Code violation to be presented to the Board of Ethics at the hearing; and

	(5) Rule upon motions, objections and the admissibility of evidence.
<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 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>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, 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>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.
<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 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:

	<p>(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;</p> <p>(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</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</p>

	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.
<i>Special Counsel</i>	Counsel for Board of Ethics.
<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 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.

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 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;
 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 seventy-five dollars (\$75.00) 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.

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. 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. - 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 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 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.
- (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. The Staff Liaison shall not be a member of the City's Law Department.

1-10-11. - CALL OF MEETING.

The Board of Ethics shall meet monthly as regularly scheduled, unless properly cancelled. The Board of Ethics may schedule Special Meetings as needed. 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.

1-10-12. - POWERS AND DUTIES.

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

- (A) To give advisory opinions to the Special Counsel on proposed action(s);
- (B) To hear complaints concerning unethical conduct as to any covered person;

- (C) To make recommendations to the Rules Committee 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;
- (E) The Board of Ethics does not have the power to issue subpoenas;
- (F) 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; and
- (G) Issue a final order which includes findings of fact and conclusions of law for all Ethics Code Complaints.

1-10-13. - BOARD OF ETHICS SPECIAL COUNSEL.

- (A) The Board of Ethics Special Counsel ("Special Counsel") is hereby established.
- (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) Special Counsel shall create their own rules and regulations to execute their duties as outlined, and in conformance with this ordinance. Such rules shall be subject to the approval of a majority of a quorum of the Ethics Board. The rules and regulations shall be published in pamphlet form available to the public.
- (D) Special Counsel on their 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 1-10-14.
- (E) 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.
- (F) The Special Counsel shall perform an intake for Ethics Complaints filed, compile any evidence submitted by the Complainant and the Respondent pertaining to said Complaint, provide legal advice and counsel to the Board of Ethics and perform all duties as specified in 1-10-15. The Special Counsel is not required to locate evidence for either party.

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

Any person (complainant) may file a formal ethics complaint with the Board of Ethics through the Special Counsel by written complaint to the Board of Ethics within thirty (30) days after the alleged violation.

- (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 the Ethics Code along with all facts known to the complainant that support the complaint.
- (B) An acknowledgment of receipt of the complaint shall be sent by the Special Counsel via email to the complainant and respondent within seven (7) calendar days of receipt of the complaint.
- (C) The Special Counsel and Chair of the Board of Ethics shall make up the Advisory Panel. The Advisory Panel shall make a preliminary jurisdictional determination as to whether the complainant has stated sufficient facts 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. If the Advisory Panel does not agree as to the jurisdictional determination, the Complaint shall be presented to the Board of Ethics in closed session for determination of jurisdiction. The Advisory Panel's determination does not constitute an open meeting of the Board of Ethics. The Advisory Panel shall 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 and all final action must be taken in open session. If the Board of Ethics determines that the complaint should be dismissed for lack of jurisdiction, the Special Counsel will communicate that finding to the complainant within seven (7) calendar days from the determination. Neither the complaint nor jurisdictional findings is subject to disclosure under the Illinois Freedom of Information Act. Upon finding that the complaint alleges sufficient facts to state a violation, the Board of Ethics shall conduct a hearing in accordance with Section 1-10-15.
- (D) The hearing shall be led by the Board of Ethics Chair and 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 the hearing is concluded. The opinion shall include a finding of facts, the identification of the specific Ethics Ordinance provision that was allegedly violated, and an opinion based upon the factual findings as to whether the alleged violation was sustained or not. A simple majority is required by the Board of Ethics for a finding of a violation of the Ethics Code.
- (F) A copy of the Board of Ethics opinion shall be sent to the respondent and the complainant. Within ten (10) 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 Special Counsel, within the ten (10) business day period set forth above.
- (G) Upon receipt of a timely written 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, the Complainant and the Rules Committee.

- (I) Only if, and when, the respondent or the complainant objects to the final opinion, the Rules Committee shall act as a Board of Appeals.
- (J) The Rules Committee may take further action as is appropriate on any determination by the Board of Ethics that there has been a violation of this Ordinance.
- (K) The Special Counsel may refer a final finding of a violation of Section 1-10-4(F) and Section 1-10-6 of this Code to the Cook County State's Attorney's Office in accordance with 5 ILCS 430/.

1-10-15. - HEARING PROCEDURES FOR ETHICS HEARINGS.

1-10-15-1. - Rules of evidence.

Rules of evidence shall not govern. The formal and technical rules of evidence do not apply in a hearing permitted under this Code. 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.

1-10-15-2. - Representation at hearings.

- (A) The case for the complainant may be presented by the complainant, any agent of the complainant or an attorney. The complainant may rely solely on the written complaint. Complainant is not required to attend the hearing.
- (B) The case for the respondent may be presented by the respondent, any agent of the respondent or an attorney. An agent who is not a licensed attorney 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 Board of Ethics. A licensed attorney is not required to produce such an authorization.

1-10-15-3. - Conduct of hearings.

The Board of Ethics Chair 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 complainant 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;
- Complainant's 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;

Deliberation by the Board of Ethics;
Vote by the Board of Ethics in open session.

1-10-15-4. - Documentary evidence.

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

1-10-15-5. - 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.

1-10-15-6. - 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 Board of Ethics Chair. Complainant or Respondent shall be granted one continuance as of right at the first scheduled hearing on a matter after there has been a determination of jurisdiction should they wish additional time to retain counsel or if the matter was scheduled without consultation with the respective party. 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.

1-10-16. - REFERRAL OF FINAL OPINIONS OF THE ETHICS BOARD TO THE RULES COMMITTEE FOR FINAL ACTION.

The following are the procedures to be followed when a final opinion of an ethics complaint is forwarded to the Rules Committee 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 Agenda at the next regularly scheduled Rules Committee meeting. If the Opinion falls within one of the Open Meetings Act exceptions (5 ILCS 120/2(c)), the Opinion shall be placed on the Executive Session agenda. All final action must be taken in Open Session.
- (B) At the next meeting of the Rules Committee, the Board of Ethics Final Opinion will be considered.
- (C) Any time prior to the issuance of the final opinion by the Rules Committee, the Board of Ethics may amend the Opinion to address the allegations against the respondent ordered per Section 1-10-14. Any final settlement must be approved by the Rules Committee. Whether the settlement is made public or not is

determined by the Rules Committee. For settlement purposes the hearing may be continued from time to time at the discretion of the Rules Committee.

- (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.
- (E) 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 they are the subject of the alleged ethical violation.
- (F) A two-thirds majority vote by the Rules Committee is needed to overturn a final decision issued by the Board of Ethics.
- (G) The final decision of the Rules Committee imposing a fine shall be subject to judicial review in accordance with applicable law.

1-10-17. - ENFORCEMENT AND PENALTIES.

- (A) Discipline for elected officials and appointed officials. The Rules Committee may take action against any elected official or appointed official who has been found by the Rules Committee to violate the Code of Ethics. Actions that the Rules Committee may take against elected officials and appointed officials include but are not limited to: counseling, reprimand, public censure or fine. The Rules Committee may, where appropriate, discharge appointed officials. The Rules Committee may not discharge an elected official. The fine may not be 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) Discipline for employees. In each instance where the City Manager takes such action, the City Manager shall make a written report to the Rules Committee 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.
- (C) Pursuant to 5 ILCS 430/70-5, and pursuant to its home rule powers, the City of Evanston hereby adopts by reference 5 ILCS 430/50-5(a) and 5 ILCS 430/50-5(c).

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: October 28, 2019

Adopted: November 25, 2019

Approved:

December 16, 2019

Stephen H. Hagerty
Stephen H. Hagerty, Mayor

Attest:

Eduardo Gomez

~~Devon Reid, City Clerk~~

Eduardo Gomez, Deputy City Clerk

Approved as to form:

Michelle L. Masoncup

Michelle L. Masoncup, Corporation Counsel