



BOARD OF ETHICS
CITY OF CHICAGO

FOR IMMEDIATE RELEASE
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CHICAGO BOARD OF ETHICS ISSUES RECOMMENDATIONS FOR STRENGTHENING CHICAGO'S ETHICS LAWS

The Chicago Board of Ethics today proposed dozens of recommendations to the Mayor and City Council to strengthen the City's ethics laws.

"We have an historic opportunity to effect lasting change to the culture of ethics in City government, and that change begins with the Mayor's strong commitment to ethical behavior and forceful laws," said Board Chair William F. Conlon.

The proposals would dramatically increase the fines for ethics violations. "We need the ability to impose appropriate sanctions that send the message that penalties for ethics violations are significant and not merely a cost of doing business," said Executive Director Steve Berlin.

The Board's proposals would also increase transparency and disclosure of potential conflicts of interests, tighten restrictions on campaign contributions from 'large-money players,' and eliminate certain kinds of secondary employment that have in the past leant themselves to conflicts of interest. They would also result in a more practical set of regulations for lobbyists.

Berlin said the changes are borne of decades of advising people on complying with Chicago's ethics laws, and on extensive research on how other large cities approach similar problems.

The Board published a draft of its proposed changes months ago and solicited and received insightful comments. These came from concerned citizens and from fellow City employees and officials in the City Council and in operating departments. They are incorporated into the Board's submission.

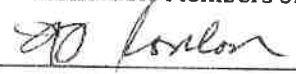


BOARD OF ETHICS
CITY OF CHICAGO

MEMORANDUM

To: The Honorable Lori E. Lightfoot, Mayor
The Honorable Members of the Chicago City Council

From:


William F. Conlon, Chair


Steven I. Berlin, Executive Director

Date: May 30, 2019

Re: Suggested Amendments to the City's ethics laws

The Board of Ethics is pleased and honored to present to you its package of suggested amendments to the City's ethics laws. We submit these pursuant to §§2-156-380(e) and -(f)¹ of the Governmental Ethics Ordinance (chapter 2 of the Municipal Code of Chicago). The Board has been working on these proposals diligently for months, and solicited comments from the public; those comments have found their way into this document. But these proposed amendments are borne of the experience of a dedicated staff: living with this law day-to-day, knowing where to suggest tightening, and being aware of other jurisdictions whose experience may inform our thoughts and approaches.

The attachment shows the proposed changes [red-lined to show additions and deletions], with extensive commentary from the Board and its staff, in [blue brackets].

The proposed changes are organized into three sections. Section 1 contains proposed changes to chapter 2-156 of the Municipal Code, which is the Governmental Ethics Ordinance. Section 2 contains proposed changes to the Rules of the City Council; Section 3 contains proposed changes to chapter 2-56 of the Municipal Code, which is the enabling ordinance of the Office of Inspector General ("IG").

Here is a high-level summary of these changes. They would:

Lobbying reforms:

-- prohibit lobbying on the City Council floor. Such a ban is currently in the City Council's rules, but should be codified in the Ordinance so it becomes enforceable, with fines for violations;

-- add an exemption to the definition of "lobbyist" for those who are employees or officials of other government units and "lobby" on those governments' behalf; and

¹ These provide, respectively, that the Board of Ethics shall have the power and duty to: (i) consult with city agencies, officials, and employees on matters involving ethical conduct"; and (ii) "recommend such legislative action as it may deem appropriate to effect the policy of this chapter."

-- add an exemption to the definition of "lobbyist" for *bona fide* salespersons who are paid on commission [many jurisdictions have this].

Ethics reforms

-- add a "misuse of office or position" provision that would prohibit City elected officials, appointed officials, or employees from using the prestige of their position for their own private gain or that of another person (like a friend), regardless whether that gain is monetary or non-monetary;

-- expand the nepotism provisions in the Ordinance that prohibit City employees and officials from managing contracts with persons or firms that employ or contract with their relatives so that they would be *prohibited from performing a much wider range* of City activities with respect to such persons or firms (not just exercising contract management authority), including, without limitation, reviewing permits and licenses and conducting inspections, and make it a violation for a firm or company to hire or retain a relative of a City employee or official with the intent of skirting this prohibition;

-- make clear that gratuities are prohibited to City employees and officials for doing their City jobs;

-- explicitly enable Chicago Police Department Personnel to work private security jobs within City limits [this would not affect the current near-prohibition on *owning* security firms with City contracts or subcontracts];

-- rewrite the "employee-to-employee" gift restrictions so they're clearer and easier to understand; and

-- expand the definition of "City owned property" to include the City seal, as well as intellectual property, equipment, machinery or other tangible items used by the City for City business purposes, so that no City employee or official may use these without authorization, and subject candidates for elected City office to the prohibition against using City property for political or other unauthorized purposes.

City Council ethics reforms

-- prohibit aldermen from representing clients or receiving compensation or income from the representation of clients in tax abatement, bankruptcy, environmental or other proceedings that impact City revenue, or the health, safety or welfare of City residents;

-- require aldermen who are recusing from matters as required by law to physically leave the City Committee room while discussion and voting on the matter occurs [this prohibition would not extend to full City Council meetings, where physical absence is not necessary due to the hubbub and openness that goes on during Council meetings]; and

-- amend City Council "Rule 14" so that *all* aldermanic disclosures, *especially* the vast majority of them, which are not required by law but only by Rule 14 [and thus show aldermen going above and beyond what the law requires], are sent to the Board of Ethics so we can post them on our website. Currently such recusals are made public, if at all, through the Journal of Council Proceedings, which is not easily available). We suggest creating both "required" and "non-required" disclosure sections.

Campaign financing; money in politics reforms

-- close the gap in the law that enables officers, directors, partners, or members of business entities subject to the \$1,500 per candidate/per calendar year political contribution limit to *individually*, without reimbursement, contribute additional amounts up to the state law limit for individuals;

-- subject City subcontractors and their key officers and owners to the \$1,500 per candidate/per calendar year political contribution limit;

-- subject real estate developers to the \$1,500 per year/per candidate contribution limitation for one full year after their proposals receive approval from the final City body, or board or commission to consider and act on their proposals; and

-- foster a discussion as to whether to subject labor unions to the \$1,500 per candidate/per calendar year political contribution limit.

Financial disclosure reforms

-- define "City Council contractor" to include individuals paid by aldermen, or City Council committee chairs, or City Council caucuses, to perform government-related services, and require these individuals to file annual Statements of Financial Interests, and enable the IG to audit these contracts; and

-- add a fine for candidates who knowingly file false or misleading Statements of Financial Interests.

Investigations and enforcement reforms

-- raise fines for Ethics Ordinance violations [other than late training or late filing violations] to between \$500 and \$20,000 per violation, from the current range, which is \$500-\$2,000 for most violations, and enable the Board to issue public censures;

-- enable the Board, consistent with due process of law, to issue advisory opinions where the Law Department and Department Head (or alderman, if a City Council employee was the subject of an investigations) believe that findings from an IG investigation are clear, and desire to impose discipline or terminate an employee quickly;

-- consider enabling the IG to investigate any *Ethics Ordinance* complaint where the last alleged bad act took place no more than 3 years before the complaint, rather than 2, as in current law, and extend the IG's time to complete ethics investigations from 2 to 3 years;

-- require continuing and enhanced coordination at the commencement of and during ethics investigations between the Board and the IG, consistent with the requirements of due process, to ensure that both our agencies' resources are used most effectively.

Organizational suggestion

Have an annual public "ethics symposium day," where members of the public can attend, make suggestions and ask questions, and representatives from the Mayor's Office and the Board would attend, as well as other specialists committed to ethics in government.

The Board welcomes the opportunity to discuss these proposals with all interested persons.

attachment



BOARD OF ETHICS
CITY OF CHICAGO
ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO,

SECTION 1. Chapter 2-156 of the Municipal Code of Chicago is hereby amended by inserting the underscored language and, where applicable, deleting ~~scored-through language~~, as follows:

(Omitted sections are unaffected by this ordinance.)

2-156-005. Code of conduct.

~~(a) The code of conduct set forth in this section shall be aspirational and shall guide the conduct of every official and employee of the city. All officials and employees of the city shall:~~

- ~~— (1) — remember that they are public servants who must place loyalty to the federal and Illinois constitutions, laws, and ethical principles above their private gain or interest.~~
- ~~— (2) — give a full day's work for a full day's pay.~~
- ~~— (3) — put forth honest effort in the performance of their duties.~~
- ~~— (4) — treat members of the public with respect and be responsive and forthcoming in meeting their requests for information.~~
- ~~— (5) — act impartially in the performance of their duties, so that no private organization or individual is given preferential treatment.~~
- ~~— (6) — refrain from making any unauthorized promises purporting to bind the city.~~
- ~~— (7) — never use any nonpublic information obtained through the performance of city work for private gain.~~
- ~~— (8) — engage in no business or financial transaction with any individual, organization or business that is inconsistent with the performance of their city duties.~~
- ~~— (9) — protect and conserve city property and resources, and use city property and resources only for authorized purposes or activities.~~
- ~~— (10) — disclose waste, fraud, abuse, and corruption to the appropriate authorities.~~
- ~~— (11) — adhere to all applicable laws and regulations that provide equal opportunity for all persons regardless of race, color, religion, gender, national origin, age, sexual orientation, or handicap.~~

~~(b) At the time of employment or becoming a city official, every city official or employee shall sign, in a form prescribed by the board of ethics, a commitment to follow the city's code of conduct set forth in this section. The department of human resources shall administer such commitment and provide a copy of the commitment to each employee at the time of hiring. The board shall administer such commitment and provide a copy of the commitment to each city official at the time of the swearing in or appointment of the official.~~

~~(c) This section is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the city, its departments, agencies, or entities, its officers, employees, or agents, or any other person.~~

[Comment: in the Board's view, the "aspirational code of conduct," which was added to the Governmental Ethics Ordinance (the "Ordinance") in 2012, weakens the perception that ethics is taken seriously. The Board recommends that it be scrapped. Its key substantive and enforceable provisions are *already* embodied in various sections of the Governmental Ethics Ordinance and the Personnel Rules. Some of its aspirations, such as (4), should remain aspirational, and should be up to voters, not Ethics Commissions or Inspectors General, to vigil.]

2-156-010 Definitions. The following definitions shall apply for purposes of this chapter:

(c-2) "Candidate" or "candidate for City office" means any person who seeks nomination for election, election to or retention in any elected office of the government of the city, whether or not such person is elected. A person seeks nomination for election, election or retention if he or she (1) takes the action necessary under the laws of the State of Illinois to attempt to qualify for nomination for election, election to or retention in public office, or (2) receives contributions or makes expenditures, or gives consent for any other person to receive contributions or make expenditures with a view to bringing about his or her nomination for election or election to or retention in such office. For purposes of this definition, the term "expenditure" has the meaning ascribed to that term in Article 9 of the Illinois Election Code, codified at 10 ILCS 5/9-1 et seq.

[Comment: This this addition should be read in conjunction with the suggestions to amend §§2-156-060 and -135. It grows out of the Board's experience in the recently concluded election cycle. It would close a gap in current law, and hold candidates to many of the same restrictions as City employees and officials, especially with respect to the use of the City seal.

Further, the Board anticipates issuing a formal opinion determining that including bank information on a D-1 filed with the Illinois State Board of Elections constitutes giving consent for the receipt of contributions, thus qualifying the person as a candidate for Governmental Ethics Ordinance purposes. In the past election cycle, some candidate committees filed D1's as "exploratory committees" – there is no such thing – and believed that, as long as they did not actually accept contributions, they were not candidates; still others thought the pivotal moment was when their filing petitions were accepted by the Chicago Board of Election Commissioners.]

(d-1) "City council employee" shall mean an individual employed by an alderman or a city council committee, bureau, or other service agency of the city council; ~~whether part-time or full-time, including an individual retained as an independent contractor by any of them.~~

(d-2) "City council contractor" shall mean an individual retained as an independent contractor by City Council member or any committee of the Chicago City Council or bureau or other service agency of the City Council or caucus of members of the City Council to provide services to any of them, provided that such services are related to city governmental functions and duties, excluding services related to the physical maintenance of city or aldermanic offices, such as, without limitation, painting, landscaping, or plumbing.

[Comment: persons who, as "independent contractors," perform government services that are directly related to constituent services or ongoing ward issues, like real estate development and zoning analyses, often influence City decisions, regardless whether they are paid with City funds or political funds or a combination thereof. There must be accountability to the public regarding these individuals, whether they work for aldermen, City Council committees, or City Council caucuses. While these individuals would not be subject to the Governmental Ethics Ordinance as employees or officials, but as contractors, they should file annual Statements of Financial Interests so the public can see who they are, which *other* clients they represent, and whether they have relatives who work for companies doing business with the City or who are lobbyists registered with the Board of Ethics. The drafting here would also put to rest the distracting issue of whether these individuals are "employees," as current law treats them.]

(e-1) "City property" means: (i) the official corporate city seal, as authorized in Chapter 1-8-010 et seq. as amended; (ii) any building or portion thereof owned or exclusively leased by the city or any city agency; or (iii) any intellectual property, website or automotive or personal property, equipment, machinery, or other tangible items used by the city for city business purposes. "City property" does not, however, include any portion of a building that is rented or leased from the city or any city agency by a private person or entity, or an employee's or official's own vehicle or property, even if used for city business purposes from time to time.

[Comment: this expansion, when read in conjunction with §§2-156-010(c-2) and -060, would clarify that City property – which cannot be used without authorization – includes the official City seal, automotive/trucking equipment, computer and telecommunications equipment, including tablets and smart phones, and of course City real estate. An employee's or official's own vehicle or property, however, would not fall into this definition, even if occasionally used for City business purposes.]

(l) "Financial interest" means an interest held by an official or employee that is valued or capable of valuation in monetary terms with a current value of more than \$1,000.00 in any consecutive twelve-month period, provided that such interest shall not include: (1) the authorized compensation paid to an official or employee for any office or employment; or (2) a time or demand deposit in a financial institution; or (3) an endowment or insurance policy or annuity contract purchased from an insurance company; or (4) any ownership through purchase at fair market value or inheritance of the shares of a mutual fund corporation, regardless of the value of or dividends on such shares, if such shares are registered on a securities exchange pursuant to the Securities Exchange Act of 1934, as amended; or (5) any ownership through purchase at fair market value or inheritance of not more than one-half of one percent of the outstanding common stock of the shares of a corporation, or any corporate subsidiary, parent or affiliate thereof, regardless of the dividends on such shares, if such shares are registered on a securities exchange pursuant to the Securities Exchange Act of 1934, as amended.

[Comment: this change codifies the Board's determination from its enforcement action in Case No. 17044.C. It clarifies that financial interest means \$1,000 in any consecutive twelve-month period, not over the life of a contract.]

(p) "Lobbyist" means any person who, on behalf of any person other than himself, or as any part of his duties as an employee of another, undertakes to influence any legislative or administrative action, including but not limited to: (1) a bond inducement ordinance; (2) a zoning matter; (3) a concession agreement; (4) the creation of a tax increment financing district; (5) the establishment of a Class 6(b) Cook County property tax classification; (6) the introduction, passage or other action to be taken on an ordinance, resolution, motion, order, appointment or other matter before the City Council; (7) the preparation of contract specifications; (8) the solicitation, award or administration of a contract; (9) the award or administration of a grant, loan, or other agreement involving the disbursement of public monies; or (10) any other determination made by an elected or appointed City official or employee of the City with respect to the procurement of goods, services or construction; provided, however, that a person shall not be deemed to have undertaken to influence any legislative or administrative action solely by submitting an application for a City permit or license or by responding to a City request for proposals or qualifications. It shall not constitute lobbying as defined here for an individual who is paid on a contingent or commission basis for the good faith sale of goods or services to contact a City official or employee regarding the purchase by the City of such goods or services, provided that such individual is contacting only those City officials or employees who have responsibility for making purchasing decisions regarding such goods or services in the normal course of business.

[Comment: Most other jurisdictions regulating procurement lobbying have exemptions from lobbyist registration for *bona fide* salespersons who are paid on commission. The Ordinance was amended in 2001 explicitly to include procurement lobbying, but an exemption for *bona fide* salespersons was not included. See Case No. 01021.A:

https://www.chicago.gov/dam/city/depts/ethics/general/AO_Lobby/01021AO-redact.pdf]

The term "lobbyist" shall include, but is not limited to, any attorney, accountant, or consultant engaged in the above-described activities; provided, however, that an attorney shall not be considered a lobbyist while representing clients in a formal adversarial hearing. The term "lobbyist" shall not include: (i) any employee or official of another government unit who engages in the above-described activities on behalf of that government unit; or (ii) any volunteer, employee, officer or director of a not-for-profit entity who seeks to influence legislative or administrative action solely on behalf of that entity. Provided further, that if (1) any person is paid or otherwise compensated to influence legislative or administrative action on behalf of a not-for-profit entity; and (2) such not-for-profit entity lobbies on behalf of its members that are for-profit entities or individuals engaged in a for-profit enterprise, such person shall be deemed to be a lobbyist within the meaning of this chapter; or (iii) a person who: (a) attends a meeting with an employee or official simply to provide technical information or address technical questions; or (b) attends a meeting to provide clerical or administrative assistance (including audio/visual, translation or interpretation and sign language); or (c) attends a meeting to observe for educational purposes; or (d) plays no role in the strategy, planning, messaging or other substantive aspect of the overall lobbying effort.

[Comment: these changes would:

(i) establish a government-to-government exception, which already exists in the post-employment provisions [although we recognize there is a counter-argument, recently articulated by the Florida State Ethics Commission:

<https://www.jacksonville.com/news/20190412/ethics-opinion-restricts-jacksonville-city-council-members-lobbying-for-two-years>]; and

(ii) clarify that non-profit organizations whose staff would not be exempt from registering as lobbyists are membership organizations whose key personnel "lobby" (as defined) to advance the interest of its (typically dues-paying) members, such as industry associations and chambers of commerce*; and

(iii) codify the Board's consistent advice to those who ask whether colleagues who accompany registered lobbyists to meetings with City officials or employees but who really are accompanying the lobbyists not to further influence the judgments or actions of City officials or employees, but to provide background or technical assistance or simply be trained by their employer, who is either the lobbyist or the lobbyist's client, that such accompanying persons are not thereby "lobbying." The Board has been advising that, if such accompanying persons are introduced by name, or hand out business cards, or speak, they must register as lobbyists. This proposal would clarify that.

*The exemption for non-profits and their internal staff members or directors – their outside, paid contract lobbyists have never been exempt – was added to the Ordinance in 2000, then curbed in July 2011 to exempt only internal staffers or directors of "one-tier" non-profits, that is, those without for-profit members. Nonetheless, much "lobbying" occurs on behalf of "one-tier" non-profits such as social service agencies, universities, and religious organizations that is not being captured under current law. The Board recommends that the City examine this in detail, because the public has an interest in knowing who from the non-profit community is influencing or attempting to influence their public officials.]

(v-1) "Prohibited political activity" means:

(5) 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.

(6) 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.

[Comment: aldermanic staff deal with liquor referenda and must assess the views of the area concerned; this should be excluded from the list of prohibited political activities because it furthers a legitimate government purpose.]

2-156-021. Misuse of Office or Position. No employee or official may knowingly use the prestige of their office or public position for their own private gain, or that of another, whether monetary or non-monetary; provided, however, that nothing in this subsection shall prohibit an official from providing usual and customary constituent services without additional compensation, or an employee from performing his or her duties of City employment.

[Comment: This provision would expand the concept of fiduciary duty. This Board and other ethics commissions have traditionally limited the application of the fiduciary duty provisions to situations in which government personnel use the authority of their government position to benefit themselves or others financially. Nonetheless, financial benefit is not the only type of gain that could tempt someone to misuse their government position. This would cover situations in which City employees or elected officials bully, intimidate, or threatening local businesses with respect to their tenants, perhaps to benefit a political contributor, or threaten City departments with adverse publicity to affect the timing or outcome of ongoing investigations or other regulatory matters that would benefit friends or other persons who have no monetary relationship with the City official or employee. What is key is that there must be a misuse of authority; legitimate constituent services are not affected. Cf., e.g. Maryland State Government Code §5-506 (2013), [https://govt.westlaw.com/mdc/Document/N7616C15061E411E78E2FF37A096C84E6?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/mdc/Document/N7616C15061E411E78E2FF37A096C84E6?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default));

COUNCIL OF THE DISTRICT OF COLUMBIA CODE OF OFFICIAL CONDUCT, VI (c)(1),
<https://dccouncil.us/wp-content/uploads/2017/05/PR22-0001b.pdf>;

2-156-030. Improper influence.

(b) No elected official, or any person acting at the direction of such official, shall contact either orally or in writing any other city official or employee with respect to any matter involving any person with whom the elected official has any business relationship that creates a financial interest on the part of the official, or the domestic partner or spouse of the official, or from whom or which the official or the official's domestic partner or spouse ~~he~~ has derived any income or compensation during the preceding twelve months or from whom or which any of them ~~he~~ reasonably expects to derive any income or compensation in the following twelve months. In addition, no elected official may preside over or participate in any discussion in any City Council committee hearing or, or participate in any discussion in any City Council meeting or vote on any matter involving a the person with whom the elected official or the official's domestic partner or spouse has any business relationship that creates a financial interest on the part of the official, or the domestic partner or spouse of the official, or from whom or which any of them ~~he~~ has derived any income or compensation during the preceding twelve months or from whom or which any of them ~~he~~ reasonably expects to derive any income or compensation in the following twelve months. The member shall remove him- or herself from the committee meeting room during such discussion and/or vote.

With regard to any such matter involving any person with whom the elected official has any business relationship that creates a financial interest on the part of the official or the official's domestic partner or spouse, or from whom either the official or spouse or domestic partner has derived any or compensation in the previous twelve months or reasonably expects to receive income or compensation in the following twelve months, the official shall disclose in writing to the Board of Ethics within 24 hours of any request from such a person that the official contact, either orally or in writing, any other city official or employee with respect to any matter involving the person. Such disclosure shall state the name of the person and the nature of the business relationship that creates a financial relationship on the part of the official, spouse or domestic partner, or the nature of compensation or income derived in the previous or following twelve

month period. The Board of Ethics shall review any disclosure made under this subsection and shall determine whether the member has provided sufficient details regarding the conflict of interest, and may request more detail if it deems that is necessary. The Board of Ethics shall post such disclosures, including any additional detail submitted by the member, on the Board of Ethics website, in a searchable format, immediately upon receipt.

[Comment: this would expand one of two conflict of interests sections in the Ordinance to ensure that aldermen or other elected officials do not improperly seek to influence other City officials or employees on, or vote on, matters affecting their spouse or domestic partner, and promptly disclose any request to engage in such attempts to influence by any person from whom or which the official or spouse received or expect to receive compensation or income in the two-year period surrounding the request, or in which the official or spouse have a financial interest.]

2-156-060. City-owned property. No official ~~or~~, employee, or candidate for City office shall engage in or permit the unauthorized use of any City property. ~~real or personal property owned or leased by the City for City business.~~

[Comment: See the comment to §2-156-010(e-1) above.]

2-156-080. Conflicts of interest; appearance of impropriety.

(b) (1) With regard to any matter pending before the City Council or any City Council Committee, any member of the City Council who has any financial interest that is either (1) distinguishable from that of the general public or all aldermen, or (2) from which the member has derived any income or compensation during the preceding twelve months or from which the member reasonably expects to derive any income or compensation in the following twelve months shall publicly disclose in detail the nature and extent of such interest, including when such interest commenced, on the records of proceedings of the City Council and City Council Committee, and shall also notify, with the same detail, the Board of Ethics of such interest within 96 hours of delivery by the Clerk to the member, of the introduction of any ordinance, resolution, order or other matter in the City Council, or as soon thereafter as the member is or should be aware of such potential conflict of interest. If a disclosing member believes that disclosure of any required detail is prohibited by applicable privacy law or a confidentiality requirement, that member shall include a statement of the pertinent basis for upon which non-disclosure is claimed, and otherwise disclose fully. The Board of Ethics shall review any disclosure made under this subsection and shall determine whether the member has provided sufficient details regarding the conflict of interest, and may request more detail if it deems that is necessary. The Board of Ethics shall give the member one opportunity to correct the defect in the disclosure within seven days from the date of such request. The Board of Ethics shall post such disclosures, including any additional detail submitted by the member, on the Board of Ethics website, in a searchable format, immediately upon receipt. The member shall abstain from participating in any discussion concerning or voting on the matter, and remove him- or herself from the committee meeting room during such discussion and/or vote, but shall be counted present for purposes of a quorum. The obligation to report a potential conflict of interest under this subsection arises as soon as the member of the city council is or should be aware of such potential conflict.

(2) To avoid even an appearance of impropriety, any member of the City Council who has any business relationship with a person or entity with a matter pending before the City Council or any City Council Committee: (i) that creates a financial interest on the part of such member, or the domestic partner or spouse of such member, or (ii) from whom or which the member, or the domestic partner or spouse of such member, has derived any income or compensation during the preceding twelve months or from whom or which the member or the domestic partner or spouse of such member reasonably expects to derive any income or compensation in the following twelve months, shall publicly disclose in detail the nature of such business relationship or income or compensation, including when such relationship commenced, on the records of proceedings of the City Council and the City Council Committee, and shall also notify, with the

same detail, the Board of Ethics of such relationship within 96 hours of delivery by the Clerk to the member, of the introduction of any ordinance, resolution, order or other matter in the City Council, or as soon thereafter as the member is or should be aware of such potential conflict of interest. If a disclosing member believes that disclosure of any required detail is prohibited by applicable privacy law or a confidentiality requirement, that member shall include a statement of the pertinent basis for non-disclosure, and otherwise disclose fully. The Board of Ethics shall review any disclosure made under this subsection and shall determine whether the member has provided sufficient detail regarding the business relationship, and may request more detail if it deems that is necessary. The Board of Ethics shall give the member one opportunity to correct the defect in the disclosure within seven days from the date of such request. The Board of Ethics shall post such disclosures, including any additional detail submitted by the member, on the Board of Ethics website, in a searchable format, immediately upon receipt. The member shall abstain from participating in any discussion concerning and voting on the matter, and remove him- or herself from the committee meeting room during such discussion and/or vote, but shall be counted present for purposes of a quorum. The obligation to report a potential conflict of interest under this subsection arises as soon as the member of the City Council is or should be aware of such potential conflict. For purposes of this subsection (ii) only: "matter pending before the City Council or any City Council Committee" shall refer to council action involving the award of loan funds, grant funds or bond proceeds, bond inducement ordinances, leases, land sales, zoning matters, the creation of tax increment financing districts, concession agreements or the establishment of a Class 6(b) Cook County property tax classification.

[Comment: see our comment to §2-156-030 above. This clarification would also require aldermen to physically leave the committee room if they are recusing themselves from a matter as required by law. It would not require them to leave the City Council chamber during a full City Council meeting. Cf. https://www.chicago.gov/content/dam/city/depts/ethics/general/Publications/Ethics_booklet-moboco.pdf, pp. 3, 4(iii).]

2-156-090. Representation of other persons.

(b) No elected official or employee may derive, directly or indirectly, any income or compensation from the representation of, any person, in any judicial or quasi-judicial proceeding before any administrative agency or court in which the City is a party and that person's interest is adverse to that of the City, or in any tax abatement, bankruptcy, or environmental protection or other proceeding that impacts anticipated City revenue, or the health, safety or welfare of City residents.

(d) No official or employee shall solicit or receive anything of value for providing opinion evidence as an expert against the interests of the City in any civil litigation or other judicial or quasi-judicial proceeding brought by or against the City.

[Comment: the change to §2-156-090(b) is consistent with the Illinois Supreme Court's landmark 1990 opinion, *In re Vrdolyak*, <https://casetext.com/case/in-re-vrdolyak-1>

The Board believes it is appropriate to pass a law requiring attorney-aldermen to personally forego these kinds of law practices, and income therefrom, when they become elected City officials. It would not limit the ability of an alderman's law partners or associates from taking on this kind of work, but there would need to be an activity- and fee-screening arrangement established between the alderman and the law firm.

The addition of §2-156-090(d) would prohibit City personnel from becoming paid expert witnesses in arbitrations, administrative proceedings, and court cases where the City is an adverse party. The Board has been involved in matters where City employees took on this kind of work, but needed to apply the Ordinance's fiduciary duty section to prohibit it. This is more direct and effective.]

2-156-130. Employment of relatives or domestic partners.

(b) No official or employee shall exercise contract management authority or knowingly participate in the making of any city administrative or legislative action or decision where any relative or the domestic partner of the official or employee is employed by or has contracts with persons doing seeking such city contract, action or decision. ~~city work over which the city official or employee has or exercises contract management authority.~~

(c) No official or employee shall use or permit the use of his or her position to assist any relative, or his domestic partner in securing employment or contracts with persons over whom the employee or official exercises contract management authority or with respect to whom he or she knowingly makes or participates in the making of any city administrative or legislative action or decision. The employment of or contracting with a relative or domestic partner of such a city official or employee by such a person within six months prior to, during the term of, or six months subsequent to the period of a city contract or the making of such action or decision shall be evidence that said employment or contract was obtained in violation of this chapter.

(d) No person shall, with intent to violate this section, hire or retain any relative or domestic partner of a City employee or official who exercises contract management authority with respect to the person's City contracts or who participates in administrative or legislative actions or decisions involving the person.

[Comment: these expand a too-narrow nepotism prohibition. Current law prohibits City employees and officials only from managing contracts with persons or firms that employ or contract with their relatives. This change would expand the ban to prohibit them from performing a *full range* of City activities with respect to persons or firms that hire or contract with their relatives, such as reviewing permits and licenses and conducting inspections, and make it a violation for a firm or company to hire or retain relatives of a City employees with the intent of skirting this prohibition. It arises from a recent case that came through the Department of Business Affairs and Consumer Protection ("BACP") and IG. We include it here at the suggestion of BACP and the Law Department.]

2-156-135. Prohibited political activities.

(b) No official, ~~or~~ employee or candidate for City office shall intentionally misappropriate any city property or resources of the city in connection with any prohibited political activity; provided, however, any official, ~~or~~ employee or candidate for City office may reserve and rent a city-owned facility at a fair market value before any such activity or event connected therewith.

[Comment: see the changes to §§2-156-010(e-1) and -060 above, with which these changes should be read in conjunction.]

2-156-142. Offering, receiving and soliciting of gifts or favors.

(d) The restriction in subsection (a) shall not apply to the following:

(12) Reasonable hosting, including travel and expenses, entertainment, meals or refreshments furnished in connection with meetings, appearances or public events or ceremonies related to official city business, if furnished by the sponsor of such meeting or public event or ceremony, and further provided that such travel and expenses, entertainment, meals or refreshments ~~have been approved in advance by the board and~~ are reported to the ~~B~~board within 10 days of after acceptance thereof. Any other provision in this chapter notwithstanding, no official or employee, including the Mayor and members of City Council, shall knowingly solicit or accept any ticket of admission or other evidence of right of entry to any entertainment event, such as, but not limited to, musical concerts and dramatic productions, or to any athletic events, as a gift or for a value less than the price printed on the ticket, which would not be offered or

given to such official or employee if such person were not an official or employee. For purposes of determining whether such ticket would be offered or given by reason of the official's or employee's position with the city, it shall be presumed that the offer of such ticket or right of entry to a member of the official's or employee's immediate family or from a business other than a public agency in which the official or employee, or a member of the official's or employee's immediate family, serves as an officer, director, stockholder, creditor, trustee, partner, or employee, is made by virtue of that official's or employee's position. Any official or employee who is performing an official duty at an entertainment event shall be exempt from this section with regard to that particular entertainment event.

[Comment: This change codifies the Board's decision regarding Cubs World Series tickets, Case 16032.A: <https://www.chicago.gov/content/dam/city/depts/ethics/general/Deck%20Chairs/LXIV/16032.A.pdf>]

(f) No official or employee, or the covered relative of such official or employee, shall solicit or accept any money or other thing of value including, but not limited to, gifts, gratuities, favors, services or promises of future employment, in return for advice or assistance on matters concerning the operation or business of the city; provided, however, that nothing in this section shall prevent: (i) an official or employee, or the covered relative of such official or employee from accepting compensation for services wholly unrelated to the official's or employee's city duties and responsibilities and rendered as part of his or her approved non-city employment, occupation or profession, or (ii) any member of the sworn force of the police department from being employed in the private security field, provided that such member has received any required approval from the police Superintendent therefor and complied with all rules and regulations promulgated by the police Superintendent relating to such employment.

[Comment: these changes would make clear that: (i) tips are forbidden to City employees and officials for City services; and (ii) as a matter of public policy, off-duty Chicago Police Officers may work security, consistent with Police Department regulations and applicable collective bargaining agreements, though they would remain subject to §2-156-110, which effectively prohibits City employees from having a financial interest – a direct or indirect ownership interest – in any City work, contract, or business.]

2-156-143. Employee-to-employee gifts.

(a) For purposes of this section, the following definitions shall apply:

"Official superior" means any employee, including but not limited to an immediate supervisor, whose official responsibilities include directing or evaluating the performance of other employees' official duties or those of any other supervisor of the employee. For purposes of this section, the term "official superior" shall also include the mayor. Additionally, for purposes of this section, an employee is considered to be the subordinate of any of his official superiors.

"Solicit" means to request contributions by personal communication or by general announcement.

"Voluntary contribution" means a contribution given freely, without pressure or coercion. A contribution is not voluntary unless it is made in an amount determined by the contributing employee, except that where an amount for a gift is included in the cost for a luncheon, reception or similar event, an employee who freely chooses to pay a proportionate share of the total cost in order to attend such event shall be deemed to have made a voluntary contribution.

(b) Except as provided in this section, an employee shall not: (i) give a gift to or make a donation towards a gift for an official superior; or (ii) solicit a contribution from another employee for a gift to either his own or the other employee's official superior.

(c) Except as provided in this section, an employee shall not accept a gift from an employee receiving less pay than himself unless: (i) the two employees are not in a subordinate-official superior relationship; and (ii) there is a personal relationship between the two employees that would justify the gift.

(d) The restriction in subsections (b) and (c) shall not apply to the following:

~~— (1) — On an occasional basis, including any occasion on which gifts are traditionally given or exchanged such as birthdays or holidays, the following may be given to an official superior or accepted from a subordinate or other employee receiving less pay:~~

- ~~— (i) — Items, other than cash, but including gift cards, with an aggregate market value of — \$10.00 or less per occasion;~~
- ~~— (ii) — Items such as food and refreshments to be shared in the office among several employees;~~
- ~~— (iii) — Personal hospitality provided at a residence which is of a type and value customarily provided by the employee to personal friends; or~~
- ~~— (iv) — Items given in connection with the receipt of personal hospitality if of a type and value customarily given on such occasions.~~

~~— (2) — A gift appropriate to the occasion may be given to an official superior or accepted from a subordinate or other employee receiving less pay:~~

- ~~— (i) — In recognition of infrequently occurring occasions of personal significance such as marriage, illness, or the birth or adoption of a child; or~~
- ~~— (ii) — Upon occasions that terminate a subordinate-official superior relationship, such as retirement, resignation, or transfer.~~

~~— (3) — An employee may solicit a voluntary contribution of no more than \$20.00 from a fellow employee for an appropriate gift to an official superior and an employee may make a voluntary contribution of \$20.00 or less to an appropriate gift to an official superior:~~

- ~~— (i) — On a special, infrequent occasion as described in subsection (d)(2) of this section; or~~
- ~~— (ii) — On an occasional basis, for items such as food and refreshments to be shared in the office among several employees. An employee may accept such gifts to which a subordinate or other employee receiving less pay than himself has contributed.~~

(1) voluntary contributions, including gift cards but not cash or cash equivalents, from a group of employees to an official superior or the relative of an official superior in any amount, provided: (i) the voluntary contribution or gift is in recognition of holidays, occasions of religious significance, occasions of personal significance including weddings, engagements, birthdays, birth or adoption of children, illness, a relative's illness or death, events presenting a housing emergency, such as a fire or tornado, occasions of professional significance, including hirings, promotions, or noteworthy accomplishments or achievements, retirements, transfers or resignations; and (ii) that any employee may make a contribution of up to \$25 for such a gift;

(2) gifts, including gift cards but not cash or cash equivalents, from a subordinate to an official superior or relative of an official superior in an amount not to exceed \$50, provided that the gift is in recognition of holidays, occasions of religious significance, occasions of personal significance including weddings, engagements, birthdays, birth or adoption of children, illness, a relative's illness or death, or events presenting a housing emergency, such as a fire or tornado, occasions of professional significance, including hirings, promotions, or noteworthy accomplishments or achievements, retirements, transfers or resignations;

(3) gifts or items given in connection with the receipt of personal hospitality if of a type and value customarily given on such occasions; and

(4) food and refreshments to be shared in the office among several employees, in which case an employee may accept such gifts to which a subordinate or other employee has contributed even if the contributing employee(s) receive less pay.

(e) Notwithstanding any other provision of this section, an official superior shall not coerce a gift from a subordinate.

[Comment: This proposal greatly simplifies the "employee-to-employee" gift issue: (i) no one should ever feel coerced to give a gift to a superior; (ii) group gifts to a superior for traditional gift-giving or life events [like Xmas, birthdays, marriage, divorce, birth of a child, illness, leaving City employment, etc.] are fine up to \$25 per donor, including gift cards, as long as no one is coerced or punished for not giving; (iii) individual gifts to superiors for events listed in (ii) are fine up to \$50; and (iv) all other gifts to superiors are prohibited.]

2-156-150. Statements of financial interests.

(a) For purposes of this article, the following persons shall be referred to as "reporting individuals":

(v) Each city council employee and city council contractor who is not solely clerical;

[Comment: see §2-156-010(d-2).]

2-156-160. Content of statements.

(14) Each City Council employee and City Council contractor shall identify the City Council member and/or City Council committee for whom he or she works at the time of filing.

[Comment: this would enable the public and other members of City Council to know which City Council employees and City Council contractors work for which City Council members, committees, bureaus or other service agencies of the City Council, or members' caucus.]

2-156-301. Lobbying during City Council meetings.

No person who is not a City Council member or staff member of a City Council member acting on behalf a City Council member at any meeting of the Council lobby shall or solicit any City Council member to vote for or against any person or proposition. Nothing in this provision is intended to limit debate by City Council members on any pending matter, or to prohibit discussion between City Council members, or between City Council members and any City employee, concerning a pending matter.

[Comment: Board staff has been advised that former aldermen, and possibly others, may have engaged in lobbying on the Council floor, during City Council meetings. While that practice is prohibited by City Council Rule 8, the Board recommends this prohibition be codified so it can be enforced by the Board and if necessary the IG.]

2-156-385. Probable cause finding.

The Inspector General may request the board to issue a finding as to whether evidence shows that there is probable cause to believe that the subject of an investigation (for purposes of this section, "subject") has violated this chapter, as follows:

(4) After reviewing all the documents and evidence submitted by the parties, including oral and written responses, the board may; (i) seek to settle the matter by fine, ~~discipline~~, or in such other manner as it

deems appropriate; ~~(ii) pursue an action for discipline;~~ (ii) pursue an action for a fine; ~~or (iii) take no action and dismiss the matter; or (iv) conclude that the violation is minor in nature and issue a private letter of admonition.~~ If a settlement agreement involves the imposition of discipline and the subject is a current employee, such settlement agreement must be approved by the head of the city department, agency or office in which the employee works. If a settlement is reached, the full final settlement agreement, including the name of the subject of the investigation and the disciplinary measure imposed on him, shall be made publicly available to the extent allowable under applicable law.

~~(6) If the subject is a current employee and the board determines to pursue an action for discipline instead of a fine, within 40 days of such determination, the board shall submit a written recommendation, with all the evidence and documents supporting the board's recommendation: (i) to the mayor, if the employee is a department head or an appointed official; (ii) to the chairman of the city council committee or to the alderman for whom the employee works, if the employee is a city council employee; or (iii) to the head of the department or agency in which the employee works, if the employee is neither a department head, appointed official or a city council employee. A person to whom the board has transmitted its recommendation for action shall, within 30 days of receipt of the recommendation, report to the board in writing the actions taken on the recommendation and, to the extent that the person declines to take any recommended action, provide a written statement of reasons for his decision.~~

(6) If the Corporation Counsel and the department head of the subject's city department, or, if the subject is a City Council employee, the alderman or chair of the City Council Committee to whom the subject reports, wish to pursue an action for discipline instead of a fine based on a completed investigation by the office of inspector general into one or more violations of this chapter, the Law Department may, in writing specifying that this is the wish of the department head or alderman, request that the Board of Ethics issue an advisory opinion addressing whether the set of facts provided constitutes one or more violations of this chapter.

[Comment: consistent with due process of law, this change would enable the Board to issue an advisory opinion in cases where the Law Department and Department Head [or alderman, if the subject is a City Council employee] believe findings from an IG investigation are clear and wish to impose discipline or terminate an employee.]

2-156-400 Confidentiality.

Adjudications, regulatory or Board-initiated enforcement matters conducted by, and advisory opinions issued by and complaints to the board, or ~~and~~ determinations ~~and~~ or recommendations on any of the foregoing thereon shall be confidential, except as provided in this chapter or as necessary to carry out powers and duties of the board or to enable another person or agency to consider and act upon the notices and recommendations of the board; provided that, without identifying the person complained against or the specific matter or transaction, the board may (a) comment publicly on such matters and recommendations and (b) publish summary opinions to inform city personnel and the public about the interpretation of provisions of this chapter.

[Comment: since 2017, the Board has and will continue to pursue its own enforcement actions where facts available to it in the public record warrant a finding of probable cause This change would codify existing practice.]

2-156-402. Waivers.

(a) When requested by a current or former city official or employee, the board may grant a waiver from compliance with any of the following:

(1) The gift restrictions in Section 2-156-142(a) ~~to the extent they apply to material or travel expenses for meetings;~~

[Comment: waiver authority for business travel is unnecessary; waiver for gift questions should *not* be limited to business travel questions.]

2-156-445. Limitation of contributing to candidates and elected officials.

(a) No person who has done business with the city, or with the Chicago Transit Authority, Chicago Board of Education, Chicago Park District, Chicago City Colleges, or Metropolitan Pier and Exposition Authority within the preceding four reporting years or is seeking to do business with the City, or with any of the other aforementioned entities, no subcontractor to a prime contractor on a city contract, and no lobbyist registered with the Board of Ethics, and no labor organization as defined under federal or state law, shall make contributions in an aggregate amount exceeding \$1,500.00: (i) to any candidate for City office during a single candidacy; or (ii) to an elected official of the government of the City during any reporting year of the official's ~~his~~ term; or (iii) to any official or employee of the City who is seeking election to any other office. For purposes of this section all contributions to a candidate's authorized political committees shall be considered contributions to the candidate. A reporting year shall be from January 1st to December 31st. For purposes of this subsection only, "seeking to do business" means: (i) the definition set forth in Section 2-156-010(x); and or (ii) any matter that was pending before the City Council or any City Council committee in the six months prior to the date of the contribution or any matter that is reasonably expected to will be pending before the City Council or any City Council Committee in the six months after the date of the contribution, if that matter involved the award of loan funds, grant funds or bond proceeds, bond inducement ordinances, leases, land sales, zoning matters, the creation of tax increment financing districts, concession agreements or the establishment of a Class 6(b) Cook County property tax classification; or (iii) any land use matter pending before the Zoning Board of Appeals, Department of Planning & Development, Community Development Commission, Plan Commission, measured from the date the matter is first introduced to any of these agencies until twelve months after the matter receives final approval from the last body named in this subsection from which approval is required.

(b) For purposes of subsection (a) above, an entity and its subsidiaries, parent company or otherwise affiliated companies, and any of their employees, officers, members, directors and partners, or owners of 1% or more, who make a political contribution for which they are reimbursed by the entity or its affiliates shall be considered a single person. However, nothing in this provision shall be construed to prohibit an employee of such an entity or its affiliated companies from making a political contribution for which the employee is not reimbursed by the entity or affiliated companies, provided the employee is not also an officer, member, director, partner, or owner of 1% or more of the entity or its affiliated companies. However, nothing in this provision shall be construed to prohibit such an employee, officer, director or partner from making a political contribution for which he is not reimbursed by a person with whom he or she is affiliated, even if that person has made the maximum contribution allowed under subsection (a).

[Comment: Three of the proposed changes above would further limit "corporate contributions." The first would apply the \$1,500 per candidate/per calendar year to City *subcontractors*; the second would close a gap in current law that enables officers, directors, partners, or members of business entities subject to the \$1,500 per candidate/per calendar year political contribution limit to contribute *additional* amounts up to the state law limit for individuals. This would put Chicago in line with other major jurisdictions, such as Illinois, New York City, Los Angeles, and San Francisco. This latter change would *not* apply to employees of persons doing or seeking to do business with the City, etc., provided these employees: (i) are not reimbursed for their contributions in any way (which would violate multiple laws); and (ii) *are not also* officers, members, directors, or owners. The third change seeks to ensure that real estate developers are subject to the \$1,500 per calendar year/per candidate contribution limit during the time their projects are pending before any of the City's real estate regulatory bodies, until a period of one year *after* their projects' final approval by the last City body whose approval is needed.

The fourth proposed change would subject labor unions to the \$1,500 per year per candidate limitation. (See Board Case No. 15041.A for a comprehensive explanation of how labor unions are treated by various campaign financing/money in politics laws in other jurisdictions:

It was reported recently by thedailyline.com that unions contributed \$9.7 million to candidates for the recently concluded elections. It is unclear how that compares with "corporate" contributions, but it is significant. The Board understands that this is a sensitive issue, but points out that many other jurisdictions limit political contributions from labor unions.

Finally, we note, the \$1,500 cap is still in line with those of other big cities. In Los Angeles, the limits were \$1,400 for Mayoral contributions and \$700 for City Council candidates in the 2017 elections [but merely \$25 for contributions made by text]; the latter limit will be raised to \$800 for the 2020 elections. This is per election, not calendar year; primaries and general elections are separate. In Philadelphia, though, the limits are \$3,000 per election from individuals and \$11,900 from businesses other than corporations, which are prohibited by Pennsylvania state law from making political contributions (though they may make independent expenditures). In New York City, which has a public financing system in place, the limits on candidates not part of the public financing system for the 2021 citywide elections will be \$5,100 per election for Mayor; \$3,950 for Borough President; and \$2,850 for City Council members. For candidates opting into the public financing system, the limits are \$2,000, \$1,500 and \$1,000, respectively. New York City also prohibits direct contributions from corporations.]

2-156-465. Sanctions.

(b) *Fines.* The following fines shall, as appropriate, apply to violations of this chapter

(1) *Failure to complete ethics training.* Any employee or official who violates section 2-156-145 and any lobbyist who violates section 2-156-146 shall be ~~finned not less than \$200.00 nor more than \$750.00~~ \$250 for each such violation. Each day that a violation continues shall constitute a separate and distinct offense to which a separate fine shall apply. The board shall also make public, in a manner that the board may deem appropriate, the names of lobbyists, employees and officials who failed to complete a mandatory ethics training on time.

[Comment: this change would make the fine for late training \$250 per day for employees, officials and lobbyists, pure and simple. There is no reason to have a range of fines for this kind of violation.]

~~(4) Violating the gift ban or the prohibited political activity sections. Any person who violates section 2-156-142 or section 2-156-135 shall be subject to a fine of not less than \$1,001.00 and not more than \$5,000.00 for each violation.~~

(4) *Improper contributions.* Any person who knowingly makes, solicits or accepts a political contribution in violation of section 2-156-140 or section 2-156-445 shall be subject to a fine of not less than \$1,000.00 and up to the higher of \$5,000.00 or three times the amount of the improper contribution that was accepted for each violation of these sections.

~~(6) False, frivolous, or bad faith allegation. Any person who intentionally makes a false, frivolous, or bad faith allegation to the board shall be fined not less than \$500.00 and up to \$5,000.00 for each offense, and, if such person is a city contractor, shall be subject to termination of a contract.~~

(7) *Violation of Chapter provisions.* Any person who violates any other provision of this chapter, where no other fine is specifically provided, shall be subject to public censure by the Board and/or a fine of not less than \$500.00 and not more than \$20,000.00 for each offense; provided that the Board may impose a fine equal to the financial benefit an official or employee realized from a violation, if higher.

[Comment: There have been a limited number – eight (8) – of completed ethics investigations turned over to the Board of Ethics by the IG which the Board has had the opportunity to adjudicate. The Board's view is

that increasing fines for all substantive ethics violations (other than campaign contribution violations -- where the penalties in effect suffice -- and training and/or late filing violations) would provide a greater incentive for people to comply with the Ordinance, and for complaints alleging ethics violations to be filed and investigated. Most importantly, it would send a clear message that ethics violations will not be treated lightly; a \$20,000 fine would serve as a much more effective deterrent than a \$2,000 fine. Chicago's fines for ethics violations are among the lowest of its big city peers: the Honolulu, Los Angeles, San Diego and San Francisco Ethics Commissions can impose fines of up to the greater of \$5,000 per violation or three times (3x) the amount of the financial benefit sought; the Cook County Board of Ethics can impose fines up to \$5,000; the Buffalo Board of Ethics can impose fines up to \$10,000 per violation; the New York City Conflicts of Interests Board can impose fines up to \$25,000 per violation (and up to \$30,000 for violations of the contribution restrictions to non-profit organizations affiliated with elected City officials). The Tallahassee City Council is considering an ethics ordinance that would allow fines equal to the financial benefit a city official saw while committing a violation.]

(9) Candidates; filing of statements of financial interests. Any person who qualifies as a candidate for city office who knowingly files a false or misleading statement of financial interests shall be subject to fines as provided in subsection (a) (8) of this section.

[Comment: under current law, the Board cannot impose any penalty on a candidate who fails to timely file a Statement of Financial Interests or knowingly files a false or misleading statement, although the finding of a violation would be made public. This change would subject candidates to the same penalties as City officials and employees.]

2-156-505. Training and filing violations – Executive director's authority.

Upon determining that a person has violated Section 2-156-145, 2-156-146, 2-156-190, 2-156-245, or 2-156-270, the executive director of the board is authorized to impose upon such person an appropriate fine as provided in Section 2-156-465. The executive director is authorized to impose or levy such fine no earlier than starting on the seventh city business day after the executive director sent notice to the person of the violation, and no fine shall begin accruing until the eighth calendar day after the executive director has sent notice to the person. The person may contest the imposition of such fine as provided by rule. The process set forth in Sections 2-156-385 and 2-156-392 are not a prerequisite to the imposition of fines pursuant to this section.

[Comment: this would codify the Board's long-standing practice and interpretation of the Ordinance.]

SECTION 2. The Rules of Order and Procedure of the City Council, City of Chicago, are hereby amended as follows:

(Omitted sections are unaffected by this ordinance.)

RULE 14. Every member who shall be present when a question is stated from the Chair shall vote thereon, unless excused by the Council. Any member seeking to recuse from any matter other than as required by Sections 2-156-030 or -080 of the Municipal Code of Chicago shall: (i) as soon as practicable, file a written statement of recusal with the Board of Ethics, stating the reason(s) for the recusal and identifying the matter(s) from which the member intends to recuse, and the reason for such recusal; and (ii) disclose the recusal on the record of the meeting and abstain from participating in any discussion concerning or voting on the matter, but may be counted present for purposes of a quorum. The Board of Ethics shall post on its website all written statements made under this Rule as soon as practicable upon receiving them.

[Comment: City Council members currently file two kinds of recusal notifications: (i) those filed with the Board of Ethics pursuant to §2-156-080(b); and (ii) and "Rule 14" disclosures, which are *not* required by

law, and actually represent City Council members going above and beyond what the law requires. While the Board posts all required disclosures it receives immediately on receipt, these Rule 14 disclosures are not posted except in the Journal of City Council Proceedings (unless they are also sent to the Board of Ethics, which posts all such disclosures received).

It is important for the public and fellow City Council members to know about these recusals in a timely fashion. The Board believes that this change would increase the public's confidence in the integrity of City Council decisions.

The Board would create two sections of the website page that display aldermanic recusals: the first being for those recusals required by the Ordinance's conflicts of interests sections in §2-156-080; the second being these voluntary "supererogatory" recusals. Posting all City Council recusal disclosures should contribute to greater confidence in the objectivity of decisions made by the City Council and its committees. The Board of Ethics is the logical place for such disclosures to be posted.]

SECTION 3.

Chapter 2-56 of the Municipal Code of Chicago is hereby amended by inserting the underscored language, as follows:

(Omitted sections are unaffected by this ordinance.)

2-56-050. Conduct of city officers, employees and other entities.

(b) (1) Notwithstanding any other provision in this chapter to the contrary, if the office of the inspector general receives a complaint alleging a violation of Chapter 2-156 against any elected or appointed city officer, city employee or any other person subject to Chapter 2-156, the inspector general, after reviewing the complaint, may only: (i) decline to open an investigation if he determines that the complaint lacks foundation or does not relate to a violation of Chapter 2-156; or (ii) refer the matter to the appropriate authority if he determines that the potential violation is minor and can be resolved internally as a personnel matter; or (iii) open an investigation. The Board of Ethics shall promulgate, in consultation with the investigating authorities, rules setting forth the criteria to determine whether a potential violation of Chapter 2-156 is minor. The office of inspector general shall report to the Board of Ethics or, as due process may require, a member of its legal staff, from time to time, but no less frequently than twice each year, on all cases described in (i) and (ii) and (iii) above, and the reasons therefor. Such reports shall be confidential and shall not be disclosed by the inspector general or Board of Ethics, except that either may, without identifying the persons complained against or the specific transaction, comment publicly on such matters or public summary opinions to inform city personnel and the public about the interpretation of provisions of the Municipal Code of Chicago.

(3) The inspector general shall conclude his investigation of any violation of Chapter 2-156 under his jurisdiction no later than three two years from the date of initiating the investigation; provided, however, that any time period during which the person under investigation has taken affirmative action to conceal evidence or delay the investigation, shall not count towards the two-year period. Notwithstanding any tolling or suspension of time applied, governmental ethics investigations by the inspector general under this Chapter are subject to an absolute four-year time limit from the date of initiation.

2-56-155. Statute of limitations on ethics investigations.

An investigation of any violation of Chapter 2-156 may not be initiated more than three two years after the most recent act of alleged misconduct.

[Comment: the idea behind these proposed changes to the IG's enabling legislation is to create greater coordination between the Board of Ethics and IG, consistent with due process of law. It is critical for the Board to understand the nature and facts of Ethics Ordinance complaints the IG has declined to investigate and the IG's rationale for such declinations. Such knowledge also enables the Board to give ethics advice that is fully consistent with the way the Ordinance is actually being enforced. Second, it is critical for the Board to understand which cases the IG deems "minor," and the disposition thereof. Third, it is also important that the Board be made aware of *ongoing* Ethics Ordinance investigations being conducted by the IG; such coordination will minimize the possibility that the Board's and IG's resources will be spent on IG investigations that result in Board determinations that an Ethics Ordinance violation is "minor," or in a dismissal by the Board on substantive grounds, or on the grounds that the IG has failed to adhere to the time limit in which it must complete ethics investigations, all of which have occurred.

This proposal would also enable the IG to complete its ethics investigations within three (3) years rather than two (2), and to commence ethics investigations where the last alleged bad act occurred not more than three (3) years before the complaint, as opposed to two (2) years, which is current law. This in turn should enable the IG to deploy its ethics investigatory resources more effectively.]

SECTION 4. This ordinance is effective upon passage and publication, provided that §§2-156-090(b) and -160(14) shall take effect on January 1, 2020.

[Comment: the Board recommends this delayed effective date so that City officials and employees who currently represent clients in the kinds of matters described in §2-156-090(b) have a reasonable time in which to refer ongoing matters to other attorneys and if necessary enter into formal activity- and fee-screening arrangements with their law partners and associates.]