

92-O-99

**AN ORDINANCE**

**Prohibiting the Solicitation and  
Acceptance of Gifts and  
Adopting the State Gift Ban Act**

WHEREAS, the General Assembly has enacted the State Gift Ban Act (P.A. 90-737; House Bill 672; 5 ILCS 425/1 *et seq.*), which became effective on January 1, 1999; and

WHEREAS, Section 83 of the Act (5 ILCS 425/83) provides in pertinent part:

Within 6 months after the effective date of this Act, units of local government, home rule units, and school districts shall prohibit the solicitation and acceptance of gifts, and shall enforce those prohibitions, in a manner substantially in accordance with the requirements of this Act and shall adopt provisions no less restrictive than the provisions of this Act.

WHEREAS, in preparing to meet the mandatory July 1, 1999, deadline, imposed by the Act, the Mayor and City Council of the City of Evanston have determined that the Act contains several procedural and substantive defects and several ambiguities and inconsistencies which make compliance with the dictates of Section 83 of the Act difficult and perhaps impossible; and

WHEREAS, while the Illinois Municipal League has requested the General Assembly to amend and clarify the Act so Illinois municipalities may have clear guidance in bringing themselves into compliance with the Act, it has become apparent that a legislative response will not be provided prior to the deadline imposed by Section 83; and

WHEREAS, the corporate authorities of the City of Evanston, in an effort to comply with the action required by Section 83, hereby pass and approve this Ordinance to bring the City of Evanston in compliance with the dictates of the Act; and

WHEREAS, the corporate authorities of the City of Evanston strongly encourage the General Assembly to take immediate action to clarify the procedural and substantive provisions of the Act so elected and appointed officials and the employees of Illinois municipalities will have clear and unequivocal ethical procedures and rules that will control their conduct.

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

**SECTION 1:** That Title 1 Chapter 10 of the Code of the City of Evanston is amended by adding the following:

**State Gift Ban Act**

**1-10-5. Adoption of Act.**

- (a) The State Gift Ban Act (5 ILCS 425 *et seq.*) is hereby adopted as required by Section 83 of the Act (5 ILCS 425/83).
- (b) The solicitation or the acceptance of gifts prohibited to be solicited or accepted under the Act is prohibited by any elected or appointed official or any employee of the City.

**1-10-5-1. Ethics Officer.**

To the extent authorized by law and to the extent required by Section 35 of the Act (5 ILCS 425/35), the City Manager or his designee shall serve as the "ethics officer" of the City. The ethics officer's duties shall be as provided in Section 35 of the Act.

**1-10-5-2. Local Ethics Commission; Complaints.**

- (a) All complaints for violating of the Act or this Ordinance shall be filed with the Board of Ethics established under Title 1 Chapter 10 of the Evanston City Code.
- (b) The Board of Ethics shall have those additional powers and duties set forth in Section 55 of the Act.
- (c) To the extent that any of its provisions may be applicable, Section 45 of the Act shall be applicable to the Board of Ethics.
- (d) The complaint procedure and the enforcement and penalty provisions of the Act and this Ordinance shall be as are provided in Sections 60, 65, and 70 of the Act.

**1-10-5-3. Existing Ethics Ordinance or Gift Ban Ordinance.**

This Ordinance does not repeal or otherwise amend or modify Title 1 Chapter 10, "Code of Ethics" of the Evanston City Code, which regulates the conduct of City officials and employees. To the extent that Title 1 Chapter 10, "Code of Ethics" of the Evanston City Code is less restrictive than the State Gift Ban Act and this Ordinance, then the provisions and this Ordinance shall prevail in accordance with the provision of Section 95 of the Act (5 ILCS 425/95).

**1-10-5-4. Future Amendments to State Gift Ban Act.**

Any amendment to the State Gift Ban Act (5 ILCS 425/1 *et seq.*) that becomes effective after the passage of this Ordinance shall be incorporated into this Ordinance by reference and shall be applicable to the solicitation and acceptance of gifts. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Ordinance by reference without formal action by the corporate authorities of the City.

**1-10-5-5. Future Declaration of Unconstitutionality of State Gift Ban Act.**

- (a) If the Illinois Supreme Court declares the State Gift Ban Act (5 ILCS 425/1 *et seq.*) unconstitutional in its entirety, then this Ordinance shall be repealed as of the date that the Supreme Court's decision becomes final and not subject to any further appeals or rehearings.

The Ordinance shall be deemed repealed without further action by the corporate authorities of the City if the Act is found unconstitutional by the Illinois Supreme Court.

- (b) If the Illinois Supreme Court declares part of the State Gift Ban Act (5 ILCS 425/1 *et seq.*) unconstitutional but upholds the constitutionality of the remainder of the Act or does not address the remainder of the Act, then the remainder of the Act as adopted by this Ordinance shall remain in full force and effect; however, that part of this Ordinance relating to the part of the Act found unconstitutional shall be deemed repealed without further action by the corporate authorities of the City.

**SECTION 2:** That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

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

Introduced: June 28, 1999

Adopted: July 12, 1999

Approved: July 20, 1999  
Lorraine H. Norton  
Mayor

ATTEST:

Mary J. Morris  
City Clerk

Approved as to form:

[Signature]  
Asst. Corporation Counsel