

SOUTH LYONS TOWNSHIP SANITARY DISTRICT

COOK COUNTY, ILLINOIS

ORDINANCE NO. 1999- 5

**AN ORDINANCE OF THE SOUTH LYONS TOWNSHIP SANITARY DISTRICT
PROHIBITING THE SOLICITATION AND ACCEPTANCE OF GIFTS AND
ADOPTING THE STATE GIFT BAN ACT (5 ILCS 425/1 ET. SEQ.: P.A. 90-737**

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 becomes 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 that the provisions of this Act.

WHEREAS, in preparing to meet the mandatory July 1, 1999 deadline imposed by the Act, the President and Board of Trustees of the South Lyons Township Sanitary District 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 and difficult and perhaps impossible; and

WHEREAS, while the Illinois Municipal League has requested the General Assembly to amend and clarify the Act so Illinois municipal entities 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 South Lyons Township Sanitary District, in an effort to comply with the action required by Section 83, hereby pass and approve this Ordinance to bring the South Lyons Township Sanitary District into compliance with the dictates of the Act; and

WHEREAS, the corporate authorities of the South Lyons Township Sanitary District 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 municipal entities will have clear and unequivocal ethical procedures and rules that control their conduct.

NOW, THEREFORE, BE IT ORDAINED BY THE President AND THE BOARD OF TRUSTEES OF THE South Lyons Township Sanitary District, COUNTRYSIDE, ILLINOIS, as follows:

BE IT ORDAINED by the Board of Trustees of the SOUTH LYONS TOWNSHIP SANITARY DISTRICT, Cook County, Illinois, as follows:

Purpose:

Pursuant to Public Act 90-737 enacted by the Illinois General Assembly, the following provisions are enacted to implement the requirements of the State Gift Ban Act.

Section One

Definitions.

As used in this Ordinance:

“Act” means the State Gift Ban Act.

“Employee” means all full-time, part-time, and contractual employees and Trustees of the South Lyons Township Sanitary District.

“Gift” means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to government employment or the official position of an employee.

“District” means the SOUTH LYONS TOWNSHIP SANITARY DISTRICT, an Illinois unit of local government.

“Prohibited Source” means any person or entity who:

- 1) is seeking official action by the District, an employee of the District or other District employee directing such employee;
- 2) does business or seeks to do business with the employee, District or other employee directing the employee;
- 3) conducts activities regulated by the District, the employee or other District employee directing such employee;
- 4) has interests that may be substantially affected by the performance or non-performance of the official duties of the employee.

Section Two

Gift Ban.

Except as otherwise provided in this Ordinance, no employee shall solicit or accept any gift from any prohibited source or in violation of any federal or state statute, rule or regulation. This ban applies to and includes spouses of and immediate family living with the employee. No prohibited source shall offer or make a gift that violates this Section.

Section Three

Exceptions

The restriction in Section 2 does not apply to the following:

- 1) Anything for which the employee pays the market value or anything not used and promptly disposed of as provided in Section 5.
- 2) A contribution, as defined in Article 9 of the Election Code that is lawfully made under the Act or attendance at a fund-raising event sponsored by a political organization.
- 3) A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father, mother, grandfather or grandmother of the individual's spouse and the individual's fiance or fiancée.
- 4) Anything provided by an individual on the basis of a personal friendship unless the employee has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the employee and not because of the personal friendship.

In determining whether a gift is provided on the basis of personal friendship, the employee shall consider the circumstances under which the gift was offered, such as:

- i the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals;
- ii whether to the actual knowledge of the employee the individual who

gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and

- iii whether to the actual knowledge of the employee the individual who gave the gift also at the same time gave the same or similar gifts to other employees.
- 5) A commercially reasonable loan evidenced in writing with repayment due by a date certain made in the ordinary course of the lender's business.
 - 6) A contribution or other payments to a legal defense fund established for the benefit of the employee that is otherwise lawfully made.
 - 7) Intra-office and inter-office gifts. For the purpose of this Ordinance, "intra-office gift" mean:
 - i Any gift given to an officer or employee of a unit of local government, from another employee of that unit of local government;
 - ii any gift given to an employee of the legislative branch, a judge or employee of the judicial branch, an officer or employee of the executive branch, an officer or employee of a local government, home rule unit, or school district, or an officer or employee of any other governmental entity from an officer or employee of the District.
 - 8) Food, refreshments, lodging, transportation, and other benefits:
 - i resulting from the outside business or employment activities (or outside activities that are not connected to the duties of the employee as an employee) of the employee, or the spouse of the employee, if the benefits have not been offered or enhanced because of the official position or employment of the employee and are customarily provided to others in similar circumstances;
 - ii customarily provided by a prospective employer in connection with bona fide employment discussions; or
 - iii provided by a political organization in connection with a fund-raising or campaign event sponsored by that organization.
 - 9) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.
 - 10) Informational materials that are sent to the employee in the form of books, articles, periodicals, other written materials, audiotapes, videotapes or other

forms of communication.

- 11) Awards or prizes that are given to competitors in contests or events open to the public, including random drawings.
- 12) Honorary degrees (and associated travel, food, refreshments, and entertainment provided in the presentation of degrees and awards).
- 13) Training (including food and refreshments furnished to all attendees as an integral part of the training) provided to an employee if the training is in the interest of the governmental entity.
- 14) Educational missions, including meetings with government officials either foreign or domestic, intended to educate public officials on matters of public policy, to which the employee may be invited to participate along with other federal, state or local public officials and community leaders.
- 15) Bequests, inheritances, and other transfers at death.
- 16) Anything that is paid for by the federal government, the state or other governmental entity under a government contract.
- 17) A gift of personal hospitality of an individual other than a registered lobbyist or agent of a foreign principal, including hospitality extended for a non-business purpose by an individual, not a corporation or organization, at the personal residence of that individual or the individual's family or on property or facilities owned by that individual or the individual's family.
- 18) Free attendance at a widely attended event permitted under Section 4.
- 19) Opportunities and benefits that are:
 - i available to the public or to a class consisting of all employees, whether or not restricted on the basis of geographic consideration;
 - ii offered to members of a group or class in which membership is unrelated to employment or official position;
 - iii offered to members of an organization such as an employees' association or credit union, in which membership is related to employment or official position and similar opportunities are available to large segments of the public through organizations of similar size;
 - iv offered to any group or class that is not defined in a manner that specifically discriminates among employees on the basis of type of

responsibility or on a basis that favors those of higher rank or rate of pay;

v in the form of loans from banks and other financial institutions on terms generally available to the public; or

vi in the form of reduced membership or other fees for participation in organization activities offered to all government employees by professional organizations if the only restrictions on membership relate to professional qualifications;

20) A plaque, trophy, or other item that is substantially commemorative in nature and that is extended for presentation.

21) Golf or tennis, food or refreshments of nominal value and catered food or refreshments, meals or beverages consumed on the premises from which they were purchased.

22) Donations of products from an Illinois company that are intended primarily for promotional purposes such as display or free distribution, and are of minimal value to any individual recipient.

23) An item of nominal value such as a greeting card, baseball cap, or T-shirt.

Section Four

Attendance at Events.

A. An employee may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception or similar event, provided by the sponsor of the event if:

1) the employee participates in the event as a speaker or a panel participant, by presenting information related to government, or by performing a ceremonial function appropriate to the employee's position or employment; or

2) attendance at the event is appropriate to the performance of civic affairs in Illinois or the official duties or representative function of the employee.

B. An employee who attends an event described in subsection (A) may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual.

C. An employee or the spouse or dependent thereof, may accept a sponsor's unsolicited offer of free attendance at a charity event, except that reimbursement

for transportation and lodging may not be accepted in connection with the event.

- D. For purposes of this section, the term "free attendance" may include waiver of all or part of a conference or other fee, the provision of transportation, or the provision of food, refreshments, entertainment, and instructional materials furnished to all attendees as an integral part of the event. The term does not include entertainment collateral to the event, nor does it include food or refreshments taken other than in a group setting with all or substantially all other attendees, except as authorized under subsection (21) of Section 3.

Section Five

Disposition of Gifts.

The recipient of a gift that is given in violation of this Act may, at his or her discretion, return the item to the donor or give the item or an amount equal to its value to an appropriate charity.

Section Six

Reimbursement.

- A. A reimbursement (including payment in kind) to an employee from a private source other than a registered lobbyist or agent of a foreign principal for necessary transportation, lodging and related expenses for travel to a meeting, speaking engagement, fact-finding trip or similar event in connection with the duties of the employee as an employee shall be deemed to be a reimbursement to the governmental entity and not a gift prohibited by this Ordinance if the employee:
- 1) discloses the expenses reimbursed or to be reimbursed and the authorization to the District Clerk within thirty (30) days after the travel is completed; and
 - 2) receives advance authorization from the employee under whose direct supervision the employee works to accept reimbursement.
- B. For purposes of subsection (A) events, the activities of which are substantially recreational in nature, shall not be considered to be in connection with the duties of an employee as an employee.
- C. Each advance authorization to accept reimbursement shall be signed by the District President and shall include:
- 1) the name of the employee;

- 2) the name of the person who will make the reimbursement;
- 3) the time, place and purpose of the travel; and
- 4) a determination that the travel is in connection with the duties of the employee as an employee would not create the appearance that the employee is using public employment for private gain.

D. Each disclosure made under subsection (A) of expenses reimbursed or to be reimbursed shall be signed by the District President and shall include:

- 1) a good faith estimate of total transportation expenses reimbursed or to be reimbursed;
- 2) a good faith estimate of total lodging expenses reimbursed or to be reimbursed;
- 3) a good faith estimate of total meal expenses reimbursed or to be reimbursed;
- 4) a good faith estimate of the total of other expenses reimbursed or to be reimbursed;
- 5) a determination that all those expenses are necessary transportation, lodging and related expenses.

Section Seven

Ethics Officer.

The Clerk of the District is hereby designated as Ethics Officer for the District. As a minimum, the Ethics Officer shall:

1. Review statements of economic interest and disclosure forms of employees before they are filed with the County Clerk; and
2. Provide guidance to employees in the interpretation and implementation of the Act.

Section Eight

Powers and Duties.

The Ethics Officer has the following powers and duties:

1. To promulgate procedures and rules governing the performance of his

duties and the exercise of his powers.

2. Upon receipt of a signed, notarized, written complaint to investigate, conduct research, conduct closed hearings and deliberations, issue recommendations and impose a fine.
3. To act only upon the receipt of a written complaint alleging a violation of this Act and not upon his own prerogative.
4. To receive information from the public pertaining to his investigations and to require additional information and documents from persons who may have violated this Act.
5. To subpoena witnesses and compel the production of books and papers pertinent to an investigation authorized by this Act.
6. To request that the State's Attorney provide legal advice without charge to the Ethics Officer.
7. To prepare and publish manuals and guides explaining the duties of individuals covered by the Act.
8. To prepare public information materials to facilitate compliance, implementation and enforcement of the Act.
9. To submit to each Ethics Officer's respective appointing authority or authorities an annual statistical report for each year consisting of (i) the number of complaints filed; (ii) the number of complaints deemed to sufficiently allege a violation of this Act; (iii) the recommendation, fine or decision issued for each complaint; (iv) the number of complaints resolved; and (v) the status of pending complaints.

The powers and duties of a Ethics Officer are limited to matters clearly within the purview of the Act.

Section Nine

Complaint Procedure.

Complaints alleging any violation of the Act shall be filed with the District's Ethics Officer.

1. Any complaint received by or incident reported to an employee alleging the violation of the Act shall be forwarded to the Ethics Officer. The complaint shall not be deemed properly filed until submitted to the Ethics Officer.

2. Within three (3) business days after the receipt of an ethics complaint, the Ethics Officer shall send by certified mail, return receipt requested, a notice to the respondent that a complaint has been filed against him or her and a copy of the complaint. The Ethics Officer shall send by certified mail, return receipt requested, a confirmation of the receipt of the complaint to the complainant within three (3) business days after the submittal to the Ethics Officer. The notices to the respondent and the complainant shall also advise them of the date, time, and place of the meeting on the sufficiency of the complaint and probable cause.
3. Upon at least twenty-four (24) hours public notice of the session, the Ethics Officer shall meet in a closed session to review the sufficiency of the complaint and, if the complaint is deemed to sufficiently allege a violation of the Act, to determine if there is probable cause based on evidence presented by the complainant, to proceed. The Ethics Officer shall issue notice to the complainant and the respondent of the Ethics Officer's ruling on the sufficiency of the complaint and, if necessary, on probable cause within seven (7) business days after receiving the complaint. If the complaint is deemed to sufficiently allege a violation of the Act and there is a determination of probable cause, then the Ethics Officer's notice to the parties of the decision to dismiss the complaint, and that notice shall be made public.
4. On the scheduled date and upon at least twenty-four (24) hours public notice of the meeting, the Ethics Officer shall conduct a closed meeting on the complaint and allow both parties the opportunity to present testimony and evidence.
5. Within six (6) weeks after the complaint's receipt, the Ethics Officer shall (i) dismiss the complaint, or (ii) issue a preliminary recommendation to the alleged violator and to the Board or impose a fine upon the violator, or both. The particular findings in the instant case, the preliminary recommendation, and any fine shall be made public.
6. Within seven (7) business days after the issuance of the preliminary recommendation or imposition of a fine, or both, the respondent may file a written demand for a public hearing on the complaint. The filing of the demand shall stay the enforcement of the preliminary recommendation or fine. Within two (2) weeks after receiving the demand, the Ethics Officer shall conduct a public hearing on the complaint after at least twenty-four (24) hours public notice of the hearing and allow both parties the opportunity to present testimony and evidence. Within five (5) business days, the Ethics Officer shall publicly issue a final recommendation to the alleged violator and to the Board of Trustees or impose a fine upon the violator, or both.

7. If a complaint is filed during the sixty (60) days preceding the date of any election at which the respondent is a candidate, the Ethics Officer shall render his decision as required under the subsection (5) within seven (7) days after the complaint is filed, and during the seven (7) days preceding that election, the Ethics Officer shall render such decision before the date of that election, if possible.
8. A Ethics Officer may levy a fine of up to Five Thousand Dollars (\$5,000.00) against any person who knowingly files a frivolous complaint alleging a violation of this Act.
9. A complaint alleging the violation of the Act must be filed within one (1) year after the alleged violation.

Section Ten

Enforcement.

1. The Ethics Officer may recommend to the Board of Trustees disciplinary action against the person it determines to be in violation of the Act. The recommendation may prescribe the following courses of action:
 - a) A reprimand;
 - b) To cease and desist the offensive action;
 - c) A return or refund of money or other items, or an amount of restitution for services received in violation of the Act;
 - d) Dismissal, removal from office, or expulsion;
 - e) Donation to a charity of an amount equal to the gift.
2. The Ethics Officer may impose a fine of up to One Thousand Dollars (\$1,000.00) per violation to be deposited into the District's general fund.
3. The Board of Trustees may take disciplinary action against an employee (i) who violates the Act, (ii) who is the subject of a recommendation by an Ethics Officer, or (iii) described by both items (i) and (ii).

The Board of Trustees may take disciplinary action recommended by the Ethics Officer, if any, or as it deems appropriate, to the extent it has constitutional and statutory authority to take that action.

The Board of Trustees shall make his action, or determination to take no action, available to the public.

4. If, after a hearing, the Ethics Officer finds no violation of this Act, the Ethics Officer shall dismiss the complaint.

Section Eleven

Penalty.

An individual who knowingly violates this Ordinance is subject to a fine of up to One Thousand Dollars (\$1,000.00).

Section Twelve

Review.

An Ethics Officer's decision to dismiss a complaint or his recommendation is not a final administrative decision, but his imposition of a fine is a final administrative decision subject to judicial review under the Administrative Review Law of the Code of Civil Procedure.

Section Thirteen

In Force.

This Ordinance shall be in full force and effect as of the 22nd day of July 1999.

DATED this 22nd day of July 1999.



PRESIDENT, South Lyons Township
Sanitary District

ATTEST:


CLERK

(SEAL)

