

ORDINANCE NO. F-0361

AN ORDINANCE AMENDING CHAPTER 42, "OFFENSES AND MISCELLANEOUS PROVISIONS", BY THE ADDITION OF A NEW ARTICLE V ENTITLED, "GIFT BAN", OF THE WHEATON CITY CODE

WHEREAS, Public Act 90-737, requires all units of local governments, including home rule municipalities, to adopt by July 1, 1999, an ordinance prohibiting the solicitation and acceptance of gifts in a manner substantially in accordance with, and no less restrictive than the Illinois State Gift Ban Act 5 ILCS 425/1 et seq.; and

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

WHEREAS, the Illinois Municipal League has requested the general assembly to amend and clarify the Act so Illinois municipalities may have clear guidance to bring themselves into compliance with the Act. It has become apparent that a legislative response will not be provided prior to July 1, 1999; and

WHEREAS, the Corporate Authorities of the City of Wheaton 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 employees of the city of Wheaton will have clear and unequivocal ethical procedures and rules that will control their conduct.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Wheaton, an Illinois Home Rule Municipality, that Chapter 42 entitled, "Offenses and Miscellaneous Provisions" of the Wheaton City Code is hereby amended by the addition of a new Article 5, to be entitled "Gift Ban," Section 42-125 through Section 42-134, which shall read as follows:

Section 1: That the following Article 5 be added to Chapter 42:

"GIFT BAN"

Sec. 42-125. 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.

Sec. 42-126. 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 Treasurer is appointed to serve as the "ethics officer" of the City. The ethics officer's duties shall be as provided in Section 35.

Sec. 42-127. State Legislative Ethics Commission; Complaints.

All complaints for violations of the Act and this Ordinance shall be filed with the State legislative ethics commission (created by Section 45(a) (6) of the Act).

Sec. 42-128. Future Amendments to State Gift Ban Act.

Any amendment to the State Gift Ban Act (5 ILCS 421/1 *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.

Sec. 42-129. 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 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."

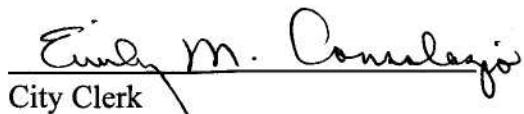
Section 2: That this Ordinance shall be effective upon its passage, approval and publication in the manner prescribed by law.



James Carr

Mayor

ATTEST:



Cindy M. Conselago

City Clerk

Roll Call Vote:

Ayes: Councilwoman Davenport
Councilman Gresk
Mayor Pro Tem Eckhoff
Councilman Johnson
Councilwoman Johnson
Councilman Mork

Nays: None

Absent: Mayor Carr

Motion Carried Unanimously

Passed: July 6, 1999

Published: July 7, 1999