

VILLAGE OF CHATHAM, ILLINOIS

ORDINANCE NO. 00- 03

AN ORDINANCE IMPLEMENTING THE ILLINOIS GIFT BAN ACT AND
ADDING CHAPTER 37 TO THE VILLAGE OF CHATHAM CODE OF
ORDINANCES

ADOPTED BY THE PRESIDENT AND BOARD OF TRUSTEES
OF THE VILLAGE OF CHATHAM, ILLINOIS
THIS 25 DAY OF January, 2000

Published in pamphlet form by the authority of the President and
Board of Trustees of the Village of Chatham, Sangamon County,
Illinois, this 25 day of January, 2000.

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**AN ORDINANCE IMPLEMENTING THE ILLINOIS GIFT BAN ACT AND
ADDING CHAPTER 37 TO THE VILLAGE OF CHATHAM CODE OF
ORDINANCES**

WHEREAS, pursuant to Public Act 90-737, the State Gift Ban Act, (hereinafter, "the Act") providing that all units of local government "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";

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF CHATHAM, SANGAMON COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: Chapter 37 is hereby added to the Village of Chatham Code of Ordinances, to state as follows:

37.001 DEFINITIONS As used in the Act and in this Ordinance, the following definitions apply:

"Employee" means all full-time, part-time, and contractual employees of the Village, including each office, board, commission, agency, department thereof.

"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 or officer.

"Officer" means any elected or appointed officer of the Village, including members of all boards and commissions thereof, except officers who serve without any salary, who are specifically exempted from this Ordinance.

"Political organization" means a party, committee, association, fund, or other organization (whether or not incorporated) organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for the function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any federal, state, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors, whether or not the individual or electors are selected, nominated, elected, or appointed. The term includes the making of expenditures relating to an office described in the preceding sentence that, if incurred by the individual, would be allowable as a federal income tax deduction for trade or business expenses.

"Prohibited source" means any person or entity who or which:

(1) is seeking official action by an officer or employee or by an officer or other employee directing the employee;

(2) does business or seeks to do business with the officer or employee, or with an officer or employee directing the employee;

(3) conducts activities regulated by the officer or employee or by an officer or employee directing the employee;

(4) has interests that may be substantially affected by the performance or non-performance of the official duties of the officer or employee; or

(5) is registered or required to be registered with the Secretary of State under the Lobbyist Registration Act.

37.002 GIFT BAN Except as otherwise provided in this Ordinance, no officer or 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 officer or employee. No prohibited source shall offer or make a gift that violates this Section.

37.003 EXCEPTIONS The restriction in Section 37.002 does not apply to the following:

(1) Anything for which the officer or employee pays the market value or anything not used and promptly disposed of as provided in Section 4.

(2) A contribution, as defined in Article 9 of the Election Code that is lawfully made thereunder, or attendance at a fundraising 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 officer or employee has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the officer or employee, and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the officer or 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 officer or 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 officer or employee, the individual who gave the gift also at the same time gave the same or similar gifts to other officers or 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 an officer or employee that is otherwise lawfully made.

(7) Intra-office and inter-office gifts. For the purpose of this Ordinance, "intra- office gifts" means any gift given to an officer or employee of the Village from another officer or employee of the Village; or any gift to an officer or employee of the Village from an officer or employee of another governmental entity.

(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 officer or employee as an office holder or employee) of the officer or employee, or the spouse of the officer or employee, if the benefits have not been offered or enhanced because of the official position or employment of the officer or 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 fundraising 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 office of the officer or 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 officer or employee if the training is in the interest of the Village.

(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 officer or 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 a governmental entity, or secured by the government or 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 nonbusiness 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 20.

(19) Opportunities and benefits that are:

(i) available to the public or to a class consisting of all employees and officers, 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 employee's 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 government employees on the basis of branch of government or 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.

37.004 ATTENDANCE AT EVENTS

(a) An officer or 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 officer or 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 officer's or employee official 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 officer or employee;

(b) An officer or 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 officer or 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.

37.005 DISPOSITION OF GIFTS. The recipient of a gift that is given in violation of this Ordinance 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.

37.006 REIMBURSEMENT

(a) A reimbursement (including payment in kind) to an officer or 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 officer or employee, shall be deemed to be a reimbursement to the governmental entity and not a gift prohibited by this Ordinance if:

(1) in the case of an officer, the officer discloses the expenses reimbursed or to be reimbursed and the authorization to the Village Board, within 30 days after the travel is completed; and

(2) in the case of an employee, the employee discloses the expenses reimbursed or to be reimbursed and receives advance authorization from the officer or other 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 officer or employee.

(c) Each advance authorization to an employee to accept reimbursement shall be signed by the officer or other employee under whose direct supervision the employee works 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 and 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 officer, 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;

and

(5) a determination that all those expenses are necessary transportation, lodging, and related expenses.

37.007 ETHICS OFFICER. The Village President shall designate one trustee as Ethics Officer for the Village. The Ethics Officer shall:

(1) review statements of economic interest and disclosure forms of officers before they are filed with the County Clerk; and

(2) provide guidance to officers and employees in the interpretation and implementation of the Act and this Ordinance;

37.008 ETHICS COMMISSION

(a) The Village President and the two trustees with the longest tenure on the Village Board shall serve as the Local Ethics Commission, and shall have the following powers and duties:

(1) to promulgate procedures and rules governing the performance of its duties and the exercise of its 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 the Act and not upon its own prerogative.

(4) to receive information from the public pertaining to its investigations and to require additional information and documents from persons who may have violated the Act;

(5) to subpoena witnesses and compel the production of books and papers pertinent to an investigation authorized by the Act;

(6) to prepare and publish manuals and guides explaining the duties of individuals covered by the Act;

(7) to prepare public information materials to facilitate compliance, implementation, and enforcement of the Act; and

(8) to submit to the Village Board 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.

(b) Complaints alleging violation of the Act shall be filed with the Commission as follows:

(1) the original and 4 copies of an ethics complaint alleging the violation of the Act must be submitted to the Village Clerk, who shall transmit the same to the Commission. The complaint shall not be accepted by the Clerk without attachment of verification by the complaining party;

(2) within 3 business days after the receipt of an ethics complaint, the Commission 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 commission shall send by certified mail, return receipt requested, a confirmation of the receipt of the complaint to the complainant within 3 business days after the submittal to the commission.

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 24 hours' public notice of the session, the commission 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 this Act, to determine if there is probable cause, based on evidence presented by the complainant, to proceed. The commission shall issue notice to the complainant and the respondent of the commission's ruling on the sufficiency of the complaint and, if necessary, on probable cause within 7 business days after receiving the complaint. If the complaint is deemed to sufficiently allege a violation of this Act and there is a determination of probable cause, then the commission's notice to the parties shall include a hearing date scheduled within 4 weeks after the complaint's receipt. If the complaint is deemed not to sufficiently allege a violation or if there is no determination of probable cause, then the commission shall send by certified mail, return receipt requested, a 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 24 hours' public notice of the meeting, the commission shall conduct a closed meeting on the complaint and allow both parties the opportunity to present testimony and evidence.;

(5) within 6 weeks after the complaint's receipt, the commission shall (i) dismiss the complaint or (ii) issue a preliminary recommendation to the alleged violator and to the violator's ultimate jurisdictional authority 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 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 2 weeks after receiving the demand, the commission shall conduct a public hearing on the complaint after at least 24 hours' public notice of the hearing and allow both parties the opportunity to present testimony and evidence. Within 5 business days, the commission shall publicly issue a final recommendation to the alleged violator and to the violator's ultimate jurisdictional authority or impose a fine upon the violator, or both;

(7) if a complaint is filed during the 60 days preceding the date of any election at which the respondent is a candidate, the commission shall render its decision as required under subsection (5) within 7 days after the complaint is filed, and during the 7 days preceding that election, the commission shall render such decision before the date of that election, if possible;

(8) a commission may levy a fine of up to \$5,000 against any person who knowingly files a frivolous complaint alleging a violation of the Act;

(9) a complaint alleging the violation of the Act must be filed within one year after the alleged violation.

(c) Enforcement

(1) The Commission may recommend to a person's appointing authority disciplinary action against the person it determines to be in violation of this Act. The recommendation may prescribe the following courses of action:

(i) a reprimand;

(ii) to cease and desist the offensive action;

(iii) a return or refund of money or other items, or an amount of restitution for services, received in violation of the Act;

(iv) dismissal, removal from office, impeachment, or expulsion;

(v) donation to a charity of an amount equal to the gift;

(2) The commission may impose a fine of up to \$1,000 per violation to be deposited into the Village's General Revenue Fund.

(3) The appointing authority of a person who violates an ethics provision may take disciplinary action against the person as recommended by a commission or as it deems appropriate, to the extent it is constitutionally permissible for the appointing authority to take that action. The appointing authority shall make its action, or determination to take no action, available to the public.

(4) If after a hearing the commission finds no violation of this Act, the commission shall dismiss the complaint.

(d) Penalty

An individual who knowingly violates the Act is guilty of a business offense and subject to a fine not exceeding \$5,000.

(e) Review

The Commission's decision to dismiss a complaint or its recommendation is not a final administrative decision, but its imposition of a fine is a final administrative decision subject to judicial review under the Administrative Review Law of the Illinois Code of Civil Procedure.

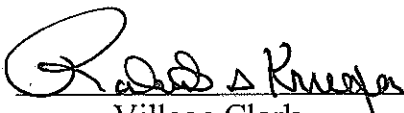
SECTION 2: EFFECTIVE DATE

This Ordinance is effective 10 days after its passage and publication. The Clerk shall publish this Ordinance in pamphlet form, and shall see to its inclusion in the Village Code of Ordinances upon the next update thereof. All prior ordinances of the Village on the subject of ethics for officers and employees, including Section 31.03 of the Village Code of Ordinances, are repealed.

PASSED this 25 day of January, 2000


VILLAGE PRESIDENT

ATTEST:


Village Clerk

AYES: 6
NAYS: 0
PASSED: 1-25-00
APPROVED: 1-25-00
ABSENT: 0

ORDINANCE CERTIFICATE

STATE OF ILLINOIS)
) SS.
COUNTY OF SANGAMON)

I, the undersigned, do hereby certify that I am the duly qualified and acting Village Clerk of the Village of Chatham, Sangamon County, Illinois.

I do further certify that the ordinance attached hereto is a full, true, and exact copy of Ordinance No. 00-____, adopted by the President and Board of Trustees of said Village on the ____ day of _____, 2000, which Ordinance is entitled:

**AN ORDINANCE IMPLEMENTING THE ILLINOIS GIFT BAN ACT AND
ADDING CHAPTER 37 TO THE VILLAGE OF CHATHAM CODE OF
ORDINANCES**

I do further certify that prior to the making of this certificate, this Ordinance was spread at length upon the permanent records of said Village, where it now appears and remains.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Village this ____ day of _____, 2000.

Village Clerk

STATE OF ILLINOIS)
) ss.
COUNTY OF SANGAMON)

CERTIFICATE

I certify that I am the duly elected and acting Village Clerk of the Village of Chatham, Sangamon County, Illinois.

I further certify that on _____, 2000, the corporate authorities of such Village passed and approved Ordinance No. 99-__ entitled:

**AN ORDINANCE IMPLEMENTING THE ILLINOIS GIFT BAN ACT AND
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which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 00-__ including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted in the Village Hall, commencing on _____, 2000, to continue for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the Village Clerk.

DATED at Chatham, Illinois, this ____ day of _____, 2000.

(SEAL)

Village Clerk