

# McHenry Township Road District

## **AN ORDINANCE ADOPTING THE STATE GIFT BAN ACT**

**Whereas**, the Illinois State Legislature passed and approved the “State Gift Ban Act” to regulate the giving and receipt of gifts by individuals and entities to public officials; and

**Whereas**, the Act provides that gifts are not to be solicited or received from prohibited sources except for specific categories defined by the Act as permissible; and

**Whereas**, the Act requires units of local government to prohibit the solicitation and acceptance of gifts in accordance with the Act, and enforce those provisions in accordance with the Act;

**NOW, THEREFORE, BE IT ORDAINED** by the Road Commissioner of the McHenry Township Road District, McHenry County, Illinois, as follows:

**SECTION 1: Definitions.** As used in this Ordinance:

- (a) “Official” means all full time, part time, contracted employees, appointed and elected officials, and directors of the McHenry Township Road District.
- (b) “Governmental Entity” means McHenry Township Road District.
- (c) “Prohibited Source” means a person or entity who is attempting to influence, do business with, is regulated by, or has interests that might be substantially affected by the performance or non-performance of officials of McHenry Township Road District.
- (d) “Ultimate Jurisdictional Authority” means the McHenry Township Road District.

**SECTION 2: Gift Ban.** Except as otherwise provided herein, no member, 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 the immediate family living with the member, officer, or employee. No prohibited source shall offer or make a gift that violates this Ordinance.

**SECTION 3: Exceptions.** The restrictions in Section 2 above do not apply to the following:

- (1) *Purchases with own money:* Anything which the Official bought at market value;
- (2) *Political/Fundraising Contributions:* A contribution as defined in Article 9 of the Election Code of the State of Illinois that is lawfully made under that Act or attendance at a fundraising event sponsored by a political organization.

- (3) *Gifts from Relatives:* 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 fiancée.
- (4) *Personal friendship gifts:* Anything provided on the basis of a personal friendship unless the Officer has reason to believe that under the circumstances the gift was provided because of the Official's position and not because of the personal friendship.
- (5) *Commercially reasonable loans:* A loan evidenced in writing with a specific due date for repayment and made in the ordinary course of the lender's business.
- (6) *Legal defense fund contributions.*
- (7) *Intra-office and inter-office gifts.*
- (8) *Food, refreshments, lodging, transportation (and other benefits* resulting from the outside business or employment activities--including outside activities not connected to the duties--of the Official if the benefits have not been offered or enhanced because of the Official's position, and are customarily provided to others in similar circumstances).
- (9) *Pension Plans.*
- (10) *Informational materials:* Such materials sent to the office of the Official in the form of books, articles, periodicals, other written materials, audio tapes, video tapes, or other forms of communication.
- (11) *Awards and Prizes:* Awards and prizes 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): Training provided to an Official if the training is in the interest of the Township.
- (14) *Educational missions:* Includes meetings with government officials, intended to educate public officials on matters of public policy, to which the Official may be invited to participate along with other public officials and community leaders.

- (15) *Inheritances*: Includes bequests and other transfers at death.
- (16) *Government purchasers*: Anything paid for by the government or secured by government under a government contract.
- (17) *Personal hospitality gifts*: Such gifts (other than from 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 widely attended events permitted under paragraph (20) below.
- (19) *Public opportunities and benefits* that are:
  - (i) available to the public or to a class consisting of all Officials, whether or not restricted on the basis of geographic consideration;
  - (ii) offered to members of a group or class in whom membership is unrelated to employment or official position;
  - (iii) offered to members of an organization such as an Official'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 the 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) *Commemorative plaques and trophies* (and related items that are substantially commemorative in nature and that are extended for presentation).
- (21) *Golf or tennis*.
- (22) *Food or refreshments* (of nominal value and catered food or refreshments).
- (23) *Meals or beverages* (consumed on premises from which purchased).
- (24) *Illinois company donations* (of minimal value to the recipient, intended primarily for promotional purposes, such as display or free distribution).

(25) *Nominal value gifts* (Examples: greeting card, baseball cap, or T-shirt).

**SECTION 4:** Attendance at events.

- (a) An Official 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 Official 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 Official's position with the Road District; 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 Official.
- (b) An Official who attends an event described in subsection (a) above may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual.
- (c) An Official 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) "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.
- (e) "Free attendance" 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 stated in subsections (21), (22), and (23) in Section 3 of this Ordinance above.

**SECTION 5:** 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 within a reasonable period of time after its receipt.

**SECTION 6:** Reimbursements.

- (a) Reimbursement to an Official from a private source--other than a registered lobbyist—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 Official shall be deemed to be a reimbursement to the governmental entity and not a prohibited gift if the Official:
  - (1) discloses the expenses reimbursed or to be reimbursed and the authorization to the fiscal officer of the Road District within 30 days after the travel is completed; and

- (2) in the case of an employee of the Road District, receives an advance authorization from the Official under whose direct supervision the employee works to accept reimbursement.
- (b) For purposes of subsection (a) above, events, the activities of which are substantially recreational in nature, shall not be considered to be in connection with the duties of an Official.
- (c) Each advance authorization to accept reimbursement shall be signed by the Official under whose direct supervision the employee works and shall include:
  - (1) name of employee;
  - (2) name of the person making reimbursement;
  - (3) time, place, and purpose of travel;
  - (4) 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) above shall be signed by the Official—in the case of travel by the Official—or by the Official or employee under whose direct supervision the employee works—in the case of travel by an employee—and shall include a determination that all those expenses are necessary transportation, lodging, and related expenses and a good faith estimate of:
  - (1) total transportation expenses reimburse or to be reimbursed;
  - (2) total lodging expenses reimbursed or to be reimbursed;
  - (3) total meal expenses reimbursed or to be reimbursed; and
  - (4) total of other expenses reimbursed or to be reimbursed.

**SECTION 7: Ethics Officer Appointed.**

- (a) The Ethics Officer for the Road District shall be appointed by the McHenry Township Road District Highway Commissioner and shall be known as the McHenry Township Road District Ethics Officer. The person appointed by the Highway Commissioner shall serve until such time as the Highway Commissioner makes a new appointment.
- (b) The duties of the Ethics Officer shall be:
  - (1) to review statements of economic interest and disclosure forms of Officials; and
  - (2) to provide guidance to Officials in the interpretation and implementation of this Ordinance and the Act.
- (c) All Officials required by law to file an economic interest statement shall provide a copy of said statement, or any other applicable disclosure statement that may be required by law, with the Ethics Officer by mailing a copy of said statement(s) to the Ethics Officer at his or her address on file with the Township Clerk.

**SECTION 8: Ultimate Jurisdictional Authority.** The McHenry Township Road District is hereby designated as the ultimate jurisdictional authority for the McHenry Township Road District.

**SECTION 9:** Location of Filing Complaints. All complaints for violations of this Ordinance shall be filed with the State legislative ethics commission as provided under the State Gift Ban Act (5 ILCS 425/45(a)(6)).

**SECTION 10:** Ordinances in Conflict. All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict. In the event of a conflict in the interpretation between this Ordinance and the State Gift Ban Act (5 ILCS 425/1 et. seq.), the interpretation of the State Gift Ban Act shall control.

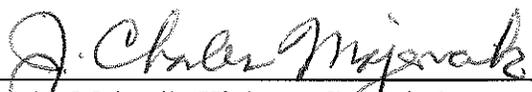
**SECTION 11:** Parts invalid. If any part or parts of this Ordinance shall be held invalid for any reason such decision shall not affect the validity of the remaining part or parts of this Ordinance. If the Illinois Supreme Court declares the State Gift Ban Act (5 ILCS 425/1 et. seq.) unconstitutional in its entirety, then this Ordinance shall be repealed (1) as of the date that the Supreme Court's decision becomes final and not subject to any further appeals or rehearings, and (2) shall be deemed repealed without further action.

**SECTION 12:** Effect. This Ordinance shall be in full force and effect from and after its passage and approval according to law.

APPROVED this 10<sup>TH</sup> day of June, 1999.



McHenry Township Road District

  
Charles Majercik, Highway Commissioner

ATTEST:

  
Township Clerk