

CITY OF LEROY  
COUNTY OF MC LEAN  
STATE OF ILLINOIS

ORDINANCE NO. 857 B  
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AN ORDINANCE BANNING GIFTS, AND BEING AN ORDINANCE AMENDING  
CHAPTER 3 OF THE MUNICIPAL CODE OF LEROY, ILLINOIS, 1975,  
(AS AMENDED), BY ADDITION OF NEW SECTION 3.10.5.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF LE ROY  
THIS 7th DAY OF September, 1999

PRESENTED: September 7, 1999

PASSED: September 7, 1999

APPROVED: September 7, 1999

RECORDED: September 7, 1999

PUBLISHED: September 7, 1999


In Pamphlet Form

Voting "Aye" 4

Voting "Nay" 0

The undersigned being the duly qualified and acting City Clerk of the City of LeRoy does hereby certify that this document constitutes the publication in pamphlet form, in connection with and pursuant to Section 1-2-4 of the Illinois Municipal Code, of the above-captioned ordinance and that such ordinance was presented, passed, approved, recorded and published as above stated.

(SEAL)

  
City Clerk of the City of LeRoy,  
McLean County, Illinois

Dated: September 7, 1999.

ORDINANCE NO. 857 B

AN ORDINANCE BANNING GIFTS, AND BEING AN ORDINANCE AMENDING  
CHAPTER 3 OF THE MUNICIPAL CODE OF LEROY, ILLINOIS, 1975,  
(AS AMENDED), BY ADDITION OF NEW SECTION 3.10.5.

WHEREAS, the Mayor and City Council of the City of LeRoy, McLean County, Illinois, an Illinois municipal corporation, have determined it is in the best interest of the City and of its residents to adopt regulations regarding the banning of gifts; and

WHEREAS, the General Assembly of the State of Illinois has enacted the State Gift Ban Act (5 ILCS 425/1, et seq.; Public Act (P.A.) 90-737), 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 governments, 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;

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 LeRoy have determined that the Act contains several procedural and substantive defects and several ambiguities and inconsistencies that 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 Illinois 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 before the deadline imposed by Section 83; and

WHEREAS, as of the date of passage of this ordinance the Illinois General Assembly has still not taken action to provide the requested guidance; and

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

WHEREAS, the corporate authorities of the City of LeRoy strongly encourage the Illinois 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 LeRoy, Illinois, in lawful meeting assembled, as follows:

Section 1. New Section 3.10.5 of Chapter 3 of the Municipal Code of LeRoy, 1975 (as amended), is hereby adopted in words and figures as follow:

A. Purpose: This ordinance is enacted pursuant to the State Gift Ban Act (5 ILCS 425/1, et seq.) effective January 1, 1999, in order to accomplish the following purposes:

- (1). To prohibit any City employee from the solicitation or acceptance of any gift from a prohibited source or in violation of any federal or State statute, rule, or regulation;
- (2). To prohibit any spouse and immediate family member living with a City employee from the solicitation or acceptance of any gift from a prohibited source or in violation of any federal or State statute, rule, or regulation;
- (3). To prohibit any prohibited source from offering or making a gift that violates this ordinance.

B. Definitions. For the purposes of this ordinance and this Section 3.10.5., and all subsections thereof, the following definitions are adopted:

- (1). "Act" means the State Gift Ban Act (5 ILCS 425/1 et seq.), adopted by Public Act 90-737, as amended from time to time.
- (2). "Employee" means all full-time, part-time, and contractual employees, and appointed and elected officials of the City of LeRoy, whether or not the employee or official is paid or unpaid.
- (3). "Gift" means 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 an employee's government employment or the official's position.
- (4). "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.

- (5). "Prohibited source" means any person or entity who:

- (a). is seeking official action by the employee or by the City or the employee's supervisor;
- (b). does business or seeks to do business with the employee or with the City or the employee's supervisor;
- (c). conducts activities regulated by the employee or by the City or the employee's supervisor;
- (d). has an interest that may be substantially affected by the performance or non-performance of the employee's official duties; or
- (e). is registered or required to be registered with the Secretary of State under the Lobbyist Registration Act.

C. 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 members living with the employee. No prohibited source shall offer or make a gift that violates this ordinance.

D. Exceptions. The restriction in the preceding sub-section C. 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 sub-section F;
- (2). A contribution, as defined in Article 9 of the Election Code (10 ILCS 5/9-1, et seq.), that is lawfully made under that Act or attendance at a fundraising event sponsored by a political organization;
- (3). A gift from a relative, meaning those people related to the employee 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 employee's spouse or of the employee's fiancé 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:
  - (a). the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between these individuals;
  - (b). 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
  - (c). 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 an employee that is otherwise lawfully made;

(7). Intra-office and inter-office gifts. For purposes of this ordinance, "intra-office gifts" and "inter-office gifts" mean any gift given to an officer or employee of the City of LeRoy by any other officer or employee of the City of LeRoy;

(8). Food, refreshments, lodging, transportation, and other benefits:

(a). 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, 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;

(b). customarily provided by a prospective employer in connection with good faith employment discussions; or

(c). 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 office of the employee in the form of books, articles, periodicals, other written materials, audio tapes, 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 City;

(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 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 sub-section E;

(19). Opportunities and benefits that are:

(a). available to the public or to a class consisting of all employees, whether or not restricted on the basis of geographic consideration;

(b). offered to members of a group or class in which membership is unrelated to employment or official position;

(c). 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;

(d). 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;

(e). in the form of loans from banks and other financial institutions on terms generally available to the public; or

(f). 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 intended 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.

#### E. Attendance At Events.

(1). 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:

(a). 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 performance of the employee's official position or employment; or

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

(2). An employee who attends an event described in sub-sub-section E.(1). may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual.

(3). 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.

(4). 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 sub-sub-section D.(21).

F. 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 its donor or give the item or any amount equal to its value to an appropriate charity.

G. Reimbursement.

(1). A reimbursement (including payment in kind) to an employee from a private source other than a registered lobbyist or agent of a foreign principal of 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 office holder or employee shall be deemed to be a reimbursement to the City and not a gift prohibited by this ordinance if the employee:

(a). disclosed the expenses reimbursed to the City Clerk, fiscal officer, or similar authority as appropriate, within thirty (30) days after the travel is completed; and

(b). in the case of an employee, receives advance authorization from the employee's direct supervisor to accept reimbursement.

(2). For purposes of sub-sub-section (1). above, 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 office holder or employee.

(3). Each advance authorization to accept reimbursement shall be signed by the employee or the employee's direct supervisor and shall include:

(a). the name of the employee;

(b). the name of the person who will make the reimbursement;

(c). the time, place and purpose of the travel; and

(d). 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 personal gain.

(4). Each disclosure made under sub-sub-section (1). above of expenses reimbursed or to be reimbursed shall be signed by the employee under whose direct supervision the employee works and shall include:

(a). a good faith estimate of total transportation expenses reimbursed or to be reimbursed;

(b). a good faith estimate of total lodging expenses reimbursed or to be reimbursed;

(c). a good faith estimate of total meal expenses reimbursed or to be reimbursed;

(d). a good faith estimate of the total of other expenses reimbursed or to be reimbursed; and

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

H. Ethics Officer. The City shall designate an Ethics Officer for the City. The Ethics Officer shall:

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

(2). provide guidance to employees in the interpretation and implementation of this ordinance.

I. Local Ethics Commission: Complaints. All complaints for violations of the Act and of this Ordinance shall be filed with the Local Ethics Commission of the City of LeRoy:

(1). to the extent authorized by law and to the extent required by the Act, the Mayor shall appoint three persons to a Local Ethics Commission with the advice and consent of the City Council.

(2). the Local Ethics Commission shall have the power and duties set forth in Section 55 of the Act;

(3). to the extent that any of its provisions may be applicable, Section 45 of the Act shall be applicable to the Local Ethics Commission;

(4). the complaint procedure and the enforcement and penalty provisions of the Act and of this ordinance shall be as provided in Sections 60, 65, and 70 of the Act, to the fullest extent applicable, and with such limitations regarding maximum penalties and other matters, as may be imposed by the Illinois Municipal Code, or any other applicable act concerning municipal governments in the State of Illinois.

J. Further Restrictions. The City may adopt or maintain policies that are more restrictive than those set forth in this ordinance and the State Gift Ban Act (5 ILCS 425/1 et seq.) and shall continue to follow any existing policies, statutes, or regulations that are more restrictive or in addition to those set forth in this ordinance and the State Gift Ban Act.

K. Future Amendments to the 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 City Council of the City of LeRoy.

L. Future Declaration of Unconstitutionality of State Gift Ban Act.

(1). 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 of LeRoy if found to be unconstitutional by the Illinois Supreme Court.

(2). 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, any part of this ordinance relating to any part of the Act found unconstitutional shall be deemed repealed without further action by the corporate authorities of the City of LeRoy if the State Gift Ban Act is found to be unconstitutional by the Illinois Supreme Court.

Section 2. Severability. The provisions and sections of this ordinance shall be deemed severable and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

Section 3. Recitals. The corporate authorities hereby find that all the recitals contained in the preambles and recitals to this ordinance are true, complete and correct, and hereby incorporate them into this ordinance by this reference thereto.

Section 4. Effective Date. This ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as required by law.

PASSED by the City Council of the City of LeRoy, Illinois, upon the motion by Steve

Dean \_\_\_\_\_, seconded by Dave McClelland \_\_\_\_\_, by roll call vote on the 7th day of September, 1999, as follows:

Aldermen elected 6 Aldermen present 4

VOTING AYE:  
Steve Dean, Dave McClelland, Dawn Thompson, Ron Litherland.  
\_\_\_\_\_  
(full names)

VOTING NAY:  
None  
\_\_\_\_\_  
(full names)

ABSENT:  
Ryan Miles, Dick Oliver.  
\_\_\_\_\_  
(full names)

ABSTAIN:  
\_\_\_\_\_  
(full names)

OTHER:  
\_\_\_\_\_  
(full names)

and deposited and filed in the office of the City Clerk in said municipality on the 7th day of September, 1999.

Sue Marcum  
\_\_\_\_\_  
Sue Marcum, City Clerk of the City of LeRoy, McLean County, Illinois

APPROVED BY the Mayor of the City of LeRoy, Illinois, this 7th day of

September, 1999.

X *Robert Rice*  
Robert Rice, Mayor of the City of LeRoy,  
McLean County, Illinois

ATTEST: (SEAL)

X *Sue Marcum*  
Sue Marcum, City Clerk of the City  
of LeRoy, McLean County, Illinois

CERTIFICATE

I, Sue Marcum, certify that I am the duly elected and acting municipal clerk of the City of LeRoy, of McLean County, Illinois.

I further certify that on September 7, 1999, the Corporate Authorities of such municipality passed and approved Ordinance No. 857 B, entitled:

AN ORDINANCE BANNING GIFTS, AND BEING AN ORDINANCE AMENDING  
CHAPTER 3 OF THE MUNICIPAL CODE OF LEROY, ILLINOIS, 1975,  
(AS AMENDED), BY ADDITION OF NEW SECTION 3.10.5,

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 857 B, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted at the municipal building, commencing on September 7, 1999, and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the municipal clerk.

Dated at LeRoy, Illinois, this 7th day of September, 1999.

(SEAL)

  
Municipal Clerk

STATE OF ILLINOIS        )  
                                  ) SS:  
COUNTY OF McLEAN        )

I, Sue Marcum, do hereby certify that I am the duly qualified and acting City Clerk of the City of LeRoy, McLean County, Illinois, and as such City Clerk that I am the keeper of the records and files of the Mayor and the City Council of said City.

I do further certify that the foregoing is a true, correct and complete copy of an ordinance entitled:

AN ORDINANCE BANNING GIFTS, AND BEING AN ORDINANCE AMENDING  
CHAPTER 3 OF THE MUNICIPAL CODE OF LEROY, ILLINOIS, 1975,  
(AS AMENDED), BY ADDITION OF NEW SECTION 3.10.5.

I do further certify said ordinance was adopted by the City Council of the City of LeRoy at a regular meeting on the 7th day of September, 1999, and prior to the making of this certificate the said ordinance was spread at length upon the permanent records of said City where it now appears and remains as a faithful record of said ordinance in the record books.

Dated this 7th day of September, 1999.

  
.....  
City Clerk

(SEAL)