

ORDINANCE NO. 1095

**AN ORDINANCE PROHIBITING THE SOLICITATION AND ACCEPTANCE
OF GIFTS AND ADOPTING THE STATE GIFT BAN ACT
(5 ILCS 425/1, et. seq.)**

WHEREAS, the General Assembly has enacted the State Gift Ban Act (Public Act 90-737; House Bill 672; 5 ILCS 425/1, et. seq.), sometimes referred to herein as "the Act", which became effective on January 1, 1999; and

WHEREAS, Section 83 of the Act (5 ILCS 425/83) provides, *inter alia*, that the City of Crest Hill is required by July 1, 1999, to prohibit the solicitation and acceptance of gifts by elected and/or appointed City officials and City employees, and that the City shall enforce such prohibitions in a manner substantially in accordance with the requirements of the Act and shall adopt provisions no less restrictive than the provisions of the Act; and

WHEREAS, the City of Crest Hill has previously enacted a Code of Ethical Conduct contained in Chapter 2.05 of the City of Crest Hill Code of Ordinances, which contains restrictions upon the acceptance of gifts as set forth in Section 2.05.060(C) thereof; and

WHEREAS, the State Gift Ban Act contains several procedural and substantive defects, ambiguities and inconsistencies which make compliance with the mandates of Section 83 of the Act difficult and perhaps impossible; and

WHEREAS, the General Assembly has been requested by the Illinois Municipal League to amend and clarify the Act so that Illinois municipalities, such as the City of Crest Hill, would have clear guidance in bringing themselves in compliance with the Act, yet the legislature has not responded to that plea and apparently will not do so prior to July 1, 1999; and

WHEREAS, Mayor and City Council of the City of Crest Hill strongly encourage the Illinois General Assembly to take immediate action to clarify the procedural and substantive of the State Gift Ban Act so elected and appointed officials and the employees of all Illinois municipalities subject to the Act will have clear and unequivocal ethical procedures and rules that will control their conduct; and

WHEREAS, the Mayor and City Council of the City of Crest Hill, in an effort to comply with the requires of the State Gift Ban Act, hereby pass and approve this Ordinance to bring the City of Crest Hill in compliance with the dictates of the Act.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF CREST HILL, WILL COUNTY, ILLINOIS, AS FOLLOWS:

Section 1: That there is hereby added to the City of Crest Hill Code of Ordinances Sections 2.05.061, 2.05.062, 2.05.063, 2.05.064 and 2.05.065 which shall provide as follows:

Section 2.05.061 Adoption of State Gift Ban Act.

- (A) The State Gift Ban Act (5 ILCS 425/1, et. seq.) is hereby adopted as required by Section 83 of the Act (5 ILCS 425/83).
- (B) The solicitation or 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.

Section 2.05.062 Ethics Officer.

To the extent authorized by law and to the extent required by Section 35 of the Act (5 ILCS 425/35), Donald Bandich is appointed to serve as the 'ethics officer' of the City of Crest Hill. The ethics officers' duties shall be as provided in Section 35 of the Act.

Section 2.05.063 State Legislative Commission; Complaints.

All complaints for violations of the State Gift Ban Act and Section 2.05.061 shall be filed with the State Legislative Ethics Commission (as created by Section 45(a)(6) of the State Gift Ban Act),

Section 2.05.064 Existing Ethics Ordinance or Gift Ban Ordinance

Section 2.05.061 of the Code of Ordinances, and the entirety of the enacting ordinance, does not repeal or otherwise amend or modify Section 2.05.060, which regulates the conduct of City officials and employees. To the extent that Section 2.05.060 is less restrictive than the terms of the State Gift Ban Act and Section 2.05.061, then the provisions of Section 2.05.061 shall prevail in accordance with Section 95 of the State Gift Ban Act (5 ILCS 425/95).

Section 2.05.065 Future Amendments to 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 Section 2.05.061 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 Section 2.05.061 by reference without formal action by the Mayor and City Council.

Section 2. Effect of Future Declaration of Unconstitutionality of State Gift Ban Act.

- (A) If the Illinois Supreme Court or the Third District Appellate Court declares the State Gift Ban Act (5 ILCS 425/1, et. seq.) unconstitutional in its entirety, then this Ordinance shall be deemed repealed as of the date of the Supreme Court's or Appellate 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 Mayor and City Council of the City of Crest Hill if the Act is found to be unconstitutional by the Illinois Supreme Court and/or the Third District Appellate Court.
- (B) If the Illinois Supreme Court or the Third District Appellate Court declares part of the State Gift Ban Act (5 ILCS 425/1, et. seq.) unconstitutional, but upholds the constitutionality of 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 Mayor and City Council of the City of Crest Hill if the Act is found to be unconstitutional by the Illinois Supreme Court and/or the Third District Appellate Court.

Section 3. This ordinance shall be in full force and effect upon its passage and approval as provided by law.


AYES: 8 PASSED this 21 day of June, 1999.

NAYS: 0 Christine Vershay 
Christine Vershay, City Clerk

ABSENT: 0

APPROVED this 21 day of June, 1999.
Donald L. Randich
Donald L. Randich, Mayor

Attest:

Christine Vershay 
Christine Vershay, City Clerk