



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

BILL NO. 070828

Introduced October 4, 2007

Councilmember Rizzo

**Referred to the
Committee on Law and Government**

AN ORDINANCE

Amending Chapter 20-600 of The Philadelphia Code, entitled "Standards of Conduct and Ethics," by amending provisions prohibiting City officers and employees from soliciting or accepting gifts from certain sources, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 20-600 of The Philadelphia Code is hereby amended as follows:

CHAPTER 20-600. STANDARDS OF CONDUCT AND ETHICS.

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§ 20-604. Gifts, Loans and Favors to City Personnel.

[(1) No member of Council or other City officer or employee, shall solicit, accept or receive any gift, loan, gratuity, favor or service of substantial economic value that might reasonably be expected to influence one in his position in the discharge of his official duties, from any person, firm, corporation or other business or professional organization.

(2) No person, firm, corporation or other business or professional organization shall offer, make or render any gift, loan, gratuity, favor or service of substantial economic value to any member of Council or other City officer or employee which might reasonably be expected to influence such officer or employee in the discharge of his official duties.]

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(1) General Prohibition on solicitation, receipt, or acceptance. No City Officer or Employee shall solicit or accept, directly or indirectly, anything of value, including any gift, gratuity, favor, entertainment or loan, from any of the following sources:

(a) A person seeking to obtain business from, or who has financial relations with, the City;

(b) A person whose operations or activities are regulated or inspected by any City agency;

(c) A person engaged, either as principal or attorney, in proceedings before any City agency or in court proceedings in which the City is an adverse party;

(d) A Person seeking legislative or administrative action by the City; or

(e) A Person whose interests may be substantially affected by the performance or nonperformance of the officer's or employee's official duties.

(2) Exceptions. The prohibitions of subsection (1) shall not apply to:

(a) The solicitation or acceptance of something of monetary value from a friend or relative when the circumstances make it clear that the motivation for the action is a personal or family relationship;

(b) Acceptance of food and refreshment of nominal value on infrequent occasions in the ordinary course of a meeting, if served to all participants at the meeting and for the purpose of permitting work at the meeting to continue. This exception shall not apply to meals served at any restaurant, club or other establishment outside a place of business at which a meeting is held, even if the meeting continues at such restaurant, club, or other establishment.

(c) Acceptance of food and refreshment at a public or private event or ceremony sponsored by a non-profit, community or civic organization, and attended by the Officer or Employee in his or her official capacity.

(d) The acceptance of loans from banks or other financial institutions on customary terms of finance for proper and usual activities, such as home mortgage loans;

(e) A voluntary gift of nominal value or donation in a nominal amount made by a City Officer or Employee to another City Officer or Employee on a special occasion such as marriage, illness, retirement, or a holiday on which the exchange of gifts is customary;

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(f) *A plaque, memento or gift of nominal value offered as a token of esteem or appreciation on the occasion of a public appearance, visit, speech or the like; or*

(g) *A “Gift to the City” that meets the requirements of subsection (3) below.*

(3) *“Gift to the City.” A gift may be accepted as a “Gift to the City,” and therefore not be considered a personal gift to any particular individual, if the following procedure is followed:*

(a) *The gift must not simply be offered to and accepted by the City employee receiving the benefit of the gift. The private entity wishing to make a Gift to the City, such as travel, attendance at an event, dinner or conference by certain appropriate officials, will make the offer to the appointing authority of any officials invited to attend. That appointing authority should then make the decision as to which City employee/official is the logical person to represent the City at the dinner or conference or the like. However, an invitation extended directly to the official who is invited may be acceptable as a “Gift to the City” if that official’s appointing authority approves acceptance of the invitation and is able to articulate a defensible justification why the invited official is the logical City employee to utilize that benefit, and if the point in subsection (b) below is also met.*

(b) *The approving official must be able to articulate a defensible justification as to a legitimate governmental purpose of the City that is advanced or assisted by the acceptance of this gift. In making this determination, the official must review the full facts of the extent and value of the gift. For example, if more than one official is a recipient, is the number of recipients appropriate? Does the gift include unnecessary extras unrelated to the governmental purpose? In determining whether a gift is justifiable, the official should consider whether the City would be willing to expend funds out of the City budget for a similar purpose.*

(4) *Procedure to Follow Upon Receipt of Prohibited Gift.*

(a) *Any Officer or Employee who receives a Gift or gratuity that is prohibited by this Section shall forward the Gift or gratuity to the head of the employee’s department or agency, together with a written explanation of the circumstances surrounding the Gift or gratuity.*

(b) *A department or agency head shall return all Gifts and gratuities received from employees pursuant to subsection (7)(a) to the donor, with a written explanation why the return is necessary. If return of a Gift or gratuity to the donor is not*

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possible, the Gift or gratuity shall be deemed to be a Gift to the City, and shall be forwarded, together with a written explanation why return to the donor is not possible, to the Procurement Department for appropriate disposition pursuant to Section 6-500(d) of the Philadelphia Home Rule Charter. Where neither return to the donor nor forwarding to Procurement is practicable, such as with perishable items, the department or agency head shall make the Gift generally available to members of the department or agency on a non-discriminatory basis, and provide a written explanation of this decision to the Board of Ethics, and, if the recipient is in the Administrative and Executive Branch, to the Inspector General.

(c) Notwithstanding the foregoing, any Officer or Employee who receives a Gift or gratuity under circumstances suggesting an intent to influence any Official Action, or suggesting that it is specifically offered as a reward, tip, or gratuity in response to any Official Action, shall immediately notify his or her supervisor; shall, together with his or her supervisor, immediately notify the Board of Ethics, and, if the recipient is in the Administrative and Executive Branch, the Inspector General of the receipt and the circumstances. The Board of Ethics shall advise as to whether the gift must be returned or other disposition made. Such advice may be made through the Board's Executive Director or General Counsel, in the Board's discretion.

(d) A copy of all written explanations prepared pursuant to subsections (4)(a) and (4)(b) shall be sent to the Board of Ethics, and, if the recipient is in the Administrative and Executive Branch, to the Inspector General.

(5) Additional departmental restrictions. Heads of departments may prescribe further limitations on gifts or meals beyond those detailed in Subsections (1) through (4).

(6) Offer and Giving of Gifts. No person, firm, corporation or other business or professional organization shall offer, make or render any gift, loan, gratuity, favor or service of substantial economic value to any City officer or employee where receipt of such gift by the recipient would be prohibited under this Section.

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Explanation:

[Brackets] indicate matter deleted.
Italics indicate new matter added.