

ORDINANCE NO. _____

**AN ORDINANCE ADDING A NEW CHAPTER 2.73 TO THE
LOVELAND MUNICIPAL CODE CONCERNING
PROHIBITED GIFTS TO CITY OFFICIALS**

WHEREAS, in 1988, the Colorado General Assembly adopted a comprehensive code of ethics applying to all state and local government officials and employees; and

WHEREAS, C.R.S. Section 24-18-104 of this code of ethics defines when it would be a breach of the public trust for state and local government officials and employees to accept gifts and further defines the kinds of gifts received by state and local government officials and employees that would not be considered a breach of the public trust; and

WHEREAS, the Colorado electorate recently adopted Amendment 41 adding a new Article XXIX to the Colorado State Constitution proposing similar but more restrictive gift limitations for state and local government officials and employees; and

WHEREAS, Section 7 of Amendment 41 provides that the gifting prohibitions of Amendment 41 will not apply to a home rule municipality that has adopted its own charter, ordinance or resolution provisions that address gifts to that municipality's officials and employees; and

WHEREAS, the City does not currently have its own gift provisions that have either been adopted into the Charter or adopted by ordinance or resolution; and

WHEREAS, the City Council has reviewed the gift prohibitions of both Amendment 41 and C.R.S. Section 24-18-104 and has determined that the City, as a home rule municipality, should have its own adopted provisions to regulate the kinds of gifts that City officials are prohibited from receiving; and

WHEREAS, by the City adopting its own gift prohibitions for City officials and employees as set out in this ordinance, the public trust will be better served by clearly and directly defining what gifts are prohibited and what gifts are permitted and by providing for more certain enforcement and penalties through the Loveland Municipal Court with respect to gifts hereafter received by the City's councilmembers, board and commission members, and employees.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF LOVELAND as follows:**

Section 1. That a new Chapter 2.73 is hereby added to the Loveland Municipal Code to read as follows:

Chapter 2.73 – Prohibited Gifts to City Officials

Sections

2.73.010 – Definitions

2.73.020 – Prohibited Gifts

2.73.030 – Permitted Gifts

2.73.040 – Violations

Section 2.73.010 – Definitions. As used in this Chapter, the following words, terms and phrases shall have the following meanings, except where the context clearly indicates otherwise:

A. “Board and commission member” shall mean any person duly appointed by the council to any board or commission of the city as authorized in City Charter Article 10 and as established in City Code Chapter 2.60, but shall not include any person who is a duly appointed commissioner of the Loveland Housing Authority established in City Code Section 2.60.160.

B. “City official” shall mean a councilmember, an employee or a board and commission member.

C. “Councilmember” shall mean a member of the council.

D. “Employee” shall mean each compensated person in the service of the city who is designated as an employee in the city’s personnel rules and regulations, but shall not include any person providing services for the city who is considered for federal income tax purposes to be an independent contractor.

E. “Gift” shall mean the transfer of a thing of value by one person to another person without the person transferring the thing of value receiving in return lawful compensation or consideration of equal or greater value from the person receiving the thing of value. However, a “gift” shall not mean any thing of value given to a person by a local, state or the federal government as authorized by law.

F. “Person” shall mean any individual, corporation, business trust, estate, trust, limited liability company, partnership, labor organization, association, political party, committee or other legal entity.

G. “Thing of value” shall mean any tangible or intangible thing having a market value, including, without limitation, money, real property, personal property, services, loans of money or property, favors, gratuities, rewards, awards, grants, scholarships, discounts, promises of future

employment, honoraria, event tickets, travel, lodging, meals, and the forbearance and forgiveness of debt.

Section 2.73.020 – Prohibited Gifts. Unless permitted under City Code Section 2.73.030, a city official shall not solicit or accept any gift from any person either directly or indirectly through the city official’s spouse or dependent child which gift the city official knows or which a reasonable person in the city official’s position should know under the circumstances, is either:

- A. a gift that would tend to improperly influence that city official to depart from the faithful and impartial discharge of his or her public duties; or
- B. is a gift being solicited or given for the primary purpose of rewarding the city official for an official action he or she has taken.

Section 2.73.030 – Permitted Gifts. The gift prohibitions of City Code Section 2.73.020 shall not apply to city officials with respect to the following permitted gifts:

- A. campaign contributions as authorized by law;
- B. a non-monetary award, publicly presented, in recognition of public service;
- C. gifts similarly available to the general public;
- D. educational scholarships and grants available to members of the general public similarly situated;
- E. grants and services provided for medical, respite or hospice care or other social welfare needs available to members of the general public similarly situated;
- F. an occasional, unsolicited gift having a fair market value of fifty dollars (\$50) or less;
- G. unsolicited informational material, publications, or subscriptions related to the city official’s performance of his or her official duties;
- H. an unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento or similar item;
- I. payment of or reimbursement for actual and necessary expenditures for registration, travel, lodging and meals for attendance at a convention, training seminar, or other meeting at which the city official is

scheduled to participate as a representative of the city or to attend as part of his or her official duties;

J. an occasional, unsolicited opportunity to participate in a business meeting or social function where a meal is served and/or entertainment is provided if the city official's attendance would not be considered extraordinary when viewed in light of the position held by the city official;

K. payment received by a councilmember for a speech, appearance or publication required to be reported by the councilmember pursuant to C.R.S. Section 24-6-203;

L. gifts received by a councilmember or a board and commission member arising from his or her employment and that is unrelated to his or her official city duties; and

M. gifts received by an employee from the city as authorized in the city's personnel rules and regulations, and any gifts received by an employee arising from his or her non-city employment and that is unrelated to his or her official city duties.

Section 2.73.040 – Violations.

A. It shall be unlawful for any city official to violate any provision of this Chapter. Proof of a violation shall be established by a preponderance of the evidence presented at trial.

B. Any city official determined by the municipal court to have violated any provision of this Chapter shall be deemed to have committed a civil infraction and shall be punished by a civil fine not to exceed one thousand dollars (\$1,000). In addition to any civil fine imposed, a judgment in the amount of twice the fair market value of the prohibited gift received shall also be entered by the municipal court against the city official. If the city official fails to pay the total judgment amount entered for the civil fine and for twice the fair market value of the prohibited gift within thirty (30) days of the entry of the final judgment, the city may pursue any legal means available to it for the collection of the judgment.

Section 2. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

Signed this ____ day of _____, 200____.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney