

TO: Mayor and City Council

FROM: Law Department

DATE: September 18, 2022

SUBJECT:

The solicitation and acceptance of public and charitable donations by City officers and employees.

PURPOSE:

To adopt rules and procedures regulating the solicitation of public or private charitable donations by City officers and employees.

BACKGROUND:

Illinois law and various ordinances adopted by the City from time to time provide for clear rules regarding the solicitation of gifts by public officers and employees from entities which do business with the City. The term "gift" as it's generally understood in these regulations, includes anything of value which creates a personal benefit to the recipient. Similarly, Illinois law and our local ordinances provide regulations on the solicitation and acceptance of political campaign contributions. Gifts and political contributions are subject to specific limitations and to public disclosure.

Illinois law and our local ordinances, however, are silent as to what procedures or processes apply to when a City officer or employee solicits or accepts something of value with the intent of furthering a City project or other City purpose. Similarly, there is ambiguity as to what rules apply when a City officer or employees solicits or accepts anything of value on behalf of a bona fide charitable organization. Under both scenarios, it may not always be clear to the donor whether the solicitation is being made as part of the officer or employee's official duties. In those instances where the solicitation has been made for a proper purpose, there is no existing mechanism for the City to properly account for the donation and its ultimate disposition.

DISCUSSION:

The proposed amendment to Chapter 15, which is the City's Ethics Ordinance, addresses this issue in two ways.

First, it defines a "public donation" as a donation of anything of value to the City in the furtherance of an official project or program of the City undertaken exclusively for public purposes. An officer or employee of the City who solicits or accepts a public donation must document his or her request using official City correspondence methods and provide the donor with a written acknowledgement of the donation. The proposed amendment further provides that the donation becomes the property of the City upon receipt and may be used exclusively for the purposes for which it was solicited. The department or officer accepting the gift must document its ultimate disposition and maintain records of the donation for at least two years

thereafter. This rule applies to most public donations, but specifically exempts donations from sources which publicly offer competitive grants or sources from which the City Council has specifically authorized receipt. Donations from other governmental entities are also exempt. Second, the proposed amendment addresses the solicitation of "private donations" by City officers and employees. Private donations generally include any donations which are not public donations. Public officers and employees are generally prohibited from soliciting private donations under circumstances where the donor may reasonably infer that the solicitation is being made as part of the person's official duties with the City. This typically means in situations where an officer or employee is on compensated time, displaying the indicia of their office or employment, or indicated to the donor that an official act of the city would or would not result based on the donor's response to the solicitation.

The proposed ordinance does provide exceptions for charitable solicitations sponsored by the City itself, a department, labor union, or other officially designated City entity. This exemption applies, for example, the City's annual United Way charitable campaign or a "fill-the-boot" campaign involving uniformed firefighters.

IMPACT STATEMENT:

Approval of this Ordinance provides guidance to the City officers and employees with respect to their solicitation of public and private donations, and with respect to public donations, provides for greater documentation of the receipt and ultimate disposition of those donations.

RECOMMENDATIONS:

That the Council deliberate upon and approve this Ordinance.

cc: Rules, Administration, and Procedures Committee



CITY OF AURORA, ILLINOIS

ORDINANCE NO. _____
DATE OF PASSAGE _____

An Ordinance amending Chapter 15 of the Code of Ordinances pertaining to the solicitation and acceptance of public or private donations by City officers and employees.

WHEREAS, the City of Aurora has a population of more than 25,000 persons and is, therefore, a home rule unit under subsection (a) of Section 6 of Article VII of the Illinois Constitution of 1970; and

WHEREAS, subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals, and welfare; and

WHEREAS, the City has adopted Chapter 15 of its Code of Ordinances to ensure that its officers and employees in all cases perform their duties for the sole benefit for the citizens of the City and that such officers and employees conduct the affairs of the City with integrity and impartiality, without allowing prejudice, favoritism or the opportunity for personal gain to influence their decisions or actions or to interfere with serving the public interest; and

WHEREAS, the City Council has determined that Chapter 15 of the Code of Ordinances does not address situations where officers or employees of the City may have the occasion to solicit donations for official City purposes or for charitable endeavors; and

WHEREAS, the City Council has determined that under certain circumstances such solicitations by City officers or employees may be improper or may create the appearance of impropriety; and

WHEREAS, the City Council finds it appropriate and in the best interest of the City to adopt regulations pertaining to the solicitation and acceptance of public or charitable donations by City officers and employees, as more fully set forth in Exhibit A to this Ordinance;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Aurora, Illinois, as follows: that Chapter 15 of the Code of Ordinances shall be and hereby is

ORDINANCE NO. _____
DATE OF PASSAGE _____

amended by changing Section 15-130 and creating Section 15-315 and Section 3-320
as set forth in Exhibit A.