

Council/Agency Meeting Held: _____	City Clerk's Signature _____
Deferred/Continued to: _____	
<input type="checkbox"/> Approved <input type="checkbox"/> Conditionally Approved <input type="checkbox"/> Denied	
Council Meeting Date: 5/16/2005	Department ID Number: CA 05-18

**CITY OF HUNTINGTON BEACH
REQUEST FOR CITY COUNCIL ACTION**

SUBMITTED TO: HONORABLE MAYOR CITY COUNCIL MEMBERS

SUBMITTED BY: JENNIFER MCGRATH CITY ATTORNEY

PREPARED BY: JENNIFER MCGRATH CITY ATTORNEY

SUBJECT: Adoption of Ordinance No. 3714 Repealing HBMC Chapter 2.05 relating to Gifts to Local Officials

2005 MAY 16 10:05 AM
 HUNTINGTON BEACH
 CITY CLERK'S OFFICE

Statement of Issue, Funding Source, Recommended Action, Alternative Action(s), Analysis, Environmental Status, Attachment(s)

Statement of Issue: At the City Council meeting of May 2, 2005, Council directed the City Attorney to prepare an ordinance repealing the local gift ban ordinance. All designated officials and employees will still be subject to state law prohibitions on gifts.

Funding Source: N/A

Recommended Action: Approve Ordinance No. 3714 Repealing Chapter 2.05 of the Huntington Beach Municipal Code Relating to Gifts to Local Officials.

Alternative Action(s): Do not approve Ordinance No. 3714.

Analysis: In 2003, the City Council, upon the recommendation of the City Attorney, amended the City's Gift Ban Ordinance, Huntington Beach Municipal Code Chapter 2.05. To avoid dual standards between state and local law, the amendment took a significant step toward mirroring state law gift ban limitations, but did not incorporate all of the provisions of state law. Specifically, the City Council set a different gift amount limitation and did not adopt all of the exceptions to the gift ban available under state law. Unfortunately, the 2003 amendment did not go far enough in alleviating the dual standards and necessity for elected officials and designated city employees from following two separate standards. By maintaining two different standards, it remains likely that an individual can fully comply with state law, yet violate the City's Municipal Code.

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REQUEST FOR ACTION

MEETING DATE: 5/16/2005

DEPARTMENT ID NUMBER: CA 05-18

State law is sufficient. It has established a standard that sets clear guidelines and still requires elected officials and designated City employees to be vigilant regarding the receipt of gifts.

Environmental Status:

Attachment(s):

City Clerk's Page Number	No.	Description
355	1.	Ordinance No. <u>3714</u> An Ordinance of the City of Huntington Beach Repealing Chapter 2.05 of the HBMC Relating to Gifts to Local Officials
	2.	Legislative Draft of Chapter 2.05

G-29.2

G-2a.3

ATTACHMENT #1

ORDINANCE NO. 3714

AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH
REPEALING CHAPTER 2.05 OF THE HUNTINGTON BEACH
MUNICIPAL CODE RELATING TO GIFTS TO PUBLIC OFFICIALS

The City Council of the City of Huntington Beach does hereby ordain as follows:

SECTION 1. Section 2.05 of the Huntington Beach Municipal Code is hereby repealed.

SECTION 2. This ordinance shall become effective 30 days after its adoption.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the _____ day of _____, 2005.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Jennifer M. Gault
City Attorney 5/2/05

REVIEWED AND APPROVED:

Renee Gault
City Administrator

INITIATED AND APPROVED:

Jennifer M. Gault
City Attorney 5/2/05

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ATTACHMENT #2

LEGISLATIVE DRAFT

Huntington Beach Municipal Code

2.05.010-2.05.020(d)

CHAPTER 2.05

GIFTS TO PUBLIC OFFICIALS

(3246-9/94, 3303-12/95, 3612-8/03)

Sections:

- ~~2.05.010 Purpose; Meaning of Terms; Interpretation; Citation~~
- ~~2.05.020 Definitions~~
- ~~2.05.030 Prohibitions of gifts~~
- ~~2.05.040 Violations and Enforcement~~

~~**2.05.010 Purpose; meaning of terms; interpretation; citation.** The City Council finds that the receipt of gifts by public officials from persons who do business with the City erodes public confidence in the impartiality of decisions made by those officials. The purpose of this Ordinance is to prohibit the donation and receipt of specified gifts, thereby eliminating, to the extent possible, such loss of confidence. (3246-9/94)~~

~~Unless otherwise expressly defined, the terms used in this Ordinance shall have the same meaning as defined in the California Political Reform Act (*California Government Code* § 81000 et seq.) and regulations issued by the Fair Political Practices Commission pursuant to the authority of the Political Reform Act, as the Act and regulations shall be, from time to time, amended. (3246-9/94)~~

~~This Chapter shall be known as, and may be cited as, the "Huntington Beach Gift Ban Ordinance." (3246-9/94)~~

~~**2.05.020 Definitions.** For the purposes of this Chapter:~~

- ~~(a) "City" means the City of Huntington Beach. (3246-9/94)~~
- ~~(b) "City Officer" means every person who is elected or appointed to an office in the City which is specified in § 87200 of the California Government Code. (3246-9/94, 3612-8/03)~~
- ~~(c) "Designated employee" means every employee of the City who is designated in the City's Conflict of Interest Code to file a statement of economic interests and every member of a board, commission, or committee, under the jurisdiction of the City Council required to file such a statement. (3246-9/94)~~
- ~~(d) "Gift" shall have the meaning it is defined to have in the California Political Reform Act (*California Government Code* Section 81000, et seq.) (3246-9/94, 3612-8/03)~~

(continued on the next page)

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2.05.030 Prohibition of gifts.

(a) No City officer or designated employee shall accept any gifts from any single source in any calendar year with a total value, either individually or cumulatively, of one hundred fifty dollars (\$150.00) or more. This amount shall automatically increase or decrease each year on January 1st, by the amount of percentage increase or decrease for the 12-month period ending in October of each year in the Consumer Price Index for All Urban Consumers for the Los Angeles-Riverside-Orange County California Area, not seasonally adjusted, as published by the US Department of Labor, Bureau of Labor Statistics.

— (3246 9/94, 3612 8/03)

Example of formula:

CPI for current period	136.0
Less CPI for previous period	129.9
Equals index point change	6.1
Divided by previous period CPI	129.9
Equals	0.047
Result multiplied by 100	0.047 x 100
Equals percent change	4.7

— (b) Gifts from unknown sources. No City officer or designated employee shall accept any gift when the identity of the donor is not known to the recipient. (3246 9/94, 3612 8/03)

2.05.040 Violations and enforcement.

(a) Any member of any City board, commission, or committee who violates Section 2.05.030 shall be subject to removal from office. (3246 9/94, 3612 8/03)

(b) Any person who violates Section 2.05.030 shall be guilty of a misdemeanor. (3246 9/94, 3612 8/03)

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