



City of Holyoke

IN CITY COUNCIL

Introduced by Councilor Kevin A. Jourdain, David K. Bartley, Todd McGee, Peter R. Tallman

Ordered, that the City Council create and adopt a new comprehensive Ethics ordinance.

In City Council, January 17, 2017. Received and referred to the Ordinance Committee.

In City Council, on December 5, 2017, the report of Committee received and the Ordinance passed its first reading.

The Ordinance passed its second reading.

The Ordinance was passed to be enrolled.

The Committee has considered the same and find that it is truly and properly enrolled.

Report of Enrollment received.

The Ordinance was passed to be Ordained and Adopted on a call of the roll of the yeas and nays --Yeas 10--Nays 2 (Lebron-Martinez, Valentin)--Absent 3 (Greaney Jr., Lopez, Roman).

VETO BY THE MAYOR.

In City Council, on December 19, 2017, Motion was made and seconded to override the Mayor's Veto.

The report of Committee received and Adopted the motion on a call of the roll of the yeas and nays --Yeas 11--Nays 4 (Lebron-Martinez, Lisi, Roman, Valentin)--Absent 0.

Breanna M. McFee
Clerk

Presented to the Mayor	Mayor's Office
For Approval _____, 20 _____ City Clerk	Holyoke, Mass. _____, 20 Approved _____ Mayor

IN THE YEAR TWO THOUSAND AND SEVENTEEN

ONE HUNDRED AND FIFTY-THIRD AMENDMENT TO CHAPTER 2 OF THE
REVISED CODE OF ORDINANCES OF THE CITY OF HOLYOKE,
MASSACHUSETTS 1997

AN ORDINANCE

Be it ordained by the City Council of the City of Holyoke as follows:

SECTION 1. Division 1 entitled "Generally" of Article II entitled "Officers and Employees Generally" of Chapter 2 entitled "Administration" of the Revised Code of Ordinances of the City of Holyoke, Massachusetts, 1997, as amended, is hereby further amended by the following:

ADDING:

Sec. 2-68 Ethics

2.68.1. Purpose

This section is intended to establish standards of conduct for officials and employees of the City of Holyoke, in addition to those established by Chapter 268A of the Massachusetts General Laws.

2.68.2 Definitions

Whenever used in this Section, the following terms shall have the following meanings, unless context requires otherwise:

- A. "Agency" means the City Council, any committee or other subdivision thereof, any City department or other administrative unit, commission, board, or other division of the government of the City.
- B. "Board of Registrars of Voters" means the Board of Registrars of Voters of the City.
- C. "Business" means any corporation, partnership, sole proprietorship, firm, franchise, association, organization, holding company, receivership, business or real estate trust, or any other legal entity organized for profit, nonprofit or charitable purposes.
- D. "Business with which a person is associated" means any business in which the reporting person or a family member is an employee, a general partner, limited partner, proprietor, officer, director, trustee or serves in any managerial capacity; and any business more than one percent of any class of outstanding equity of which is beneficially owned in the aggregate by the reporting person and/or family members.

E. "Candidate" means any individual who seeks nomination or election to the office of Mayor, City Councilor or School Committee member. For the purposes of this chapter, an individual shall be deemed to be seeking nomination or election to an office if such individual has:

1. Received a political contribution or made an expenditure, or has given such individual's consent for any person or committee to receive a political contribution or make an expenditure, for the purpose of influencing such individual's nomination or election to such office, whether or not the specific municipal office for which such individual will seek nomination or election is known at the time the political contribution is received or the expenditure is made; or

2. Taken action necessary under the law to qualify such individual for nomination or election to such office.

F. "City" means the City of Holyoke.

G. "City contractor" means any person (including its agents or employees acting within the scope of their employment) who is paid from the City treasury or pursuant to City Ordinance, for goods or services provided to any City agency, regardless of the nature of the relationship of such person to the City for purposes other than this chapter.

H. "Contract management authority" means supervisory responsibility for the formulation, execution or performance of a City contract, including without limitation the preparation of specifications, evaluation of bids or proposals, negotiation of contract terms or supervision of performance.

I. "Doing business" is the purchase, lease or sale of goods or services in any transaction with the City or any department, agency, commission or other part thereof.

J. "Economic interest" means a financial interest, whether vested or contingent, legal or beneficial, with a present fair market value greater than two hundred fifty dollars which is distinguishable from that of the public generally.

K. "Employee" means an individual, other than a municipal official, who is employed by the City or any City agency, whether part-time or full-time.

L. "Equity" means any stock, interests in capital or profits and losses, or similar ownership interest in a business.

M. "Family member" means a spouse, any dependent children residing in the reporting person's household, or a sibling.

N. "Gift" means a delivery of goods, money, entertainment, subscription, advance, services or anything of value, unless consideration of equal or greater value is received. If

items are furnished or services are rendered for less than the fair market value, the difference between the fair market value and the price shall be treated as a gift. "Gift" shall not include a political contribution reported as required by law, a commercially reasonable loan made in the ordinary course of business, anything of value received by inheritance, or a gift received from a relative of the recipient municipal official or employee within the third degree of consanguinity of the reporting person or of the reporting person's spouse or from the spouse of any such relative.

O. "Legislative agent" means any person who for compensation or reward does any act to promote, oppose or influence legislation or any other matter before the City Council or School Committee, or to influence the decision of any member of the City administration where such decision concerns legislation or the adoption, defeat or postponement of a standard rate, rule or regulation pursuant thereto. The term shall include persons who, as any part of their usual employment and not simply incidental thereto, attempt to promote, oppose or influence such matters, whether or not any compensation in addition to the salary for such employment is received for such services.

P. "Municipal body" means any agency, authority, board, bureau, commission, committee, council, department, division, school department, or other legal entity within the government of the City.

Q. "Municipal official" means:

1. Any individual holding any one of the following positions in the government of the City, whether by election or appointment: Mayor, Councilor; City Clerk; Auditor; City Solicitor; School Committee Member; School Superintendent; Assistant Superintendent and Principals; Chief of Police; Chief of Fire Department;
2. The members of board and commissions, and the executive or administrative head or heads of such boards or commissions, whether elected or appointed, compensated or uncompensated, of a municipal body or bodies with executive, regulatory or permitting authority; or
3. Any employee as defined by the Holyoke Code of Ordinances.

R. "Person" means a business, individual, corporation, union, association, firm, partnership, committee, or other organization or group of persons.

S. "Political contribution" means a contribution of money or anything of value to an individual, candidate or political committee, or person acting on behalf of any individual, candidate or political committee, for the purpose of influencing the nomination or election of such individual or candidate, or for the purpose of promoting or opposing a Charter change, referendum question, or other question submitted to the voters, and shall include any of the following:

1. Gift, subscription, loan, advance, deposit of money, or thing of value, except a loan of money to a candidate by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business;
2. Transfer of money or anything of value between political committees;
3. Payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to such candidate or committee;
4. Purchase from an individual, candidate or political committee, whether through the device of tickets, advertisements or otherwise, for fund-raising activities, including testimonials, held on behalf of such individual, candidate or political committee, to the extent that the purchase price exceeds the actual cost of the goods sold or services rendered;
5. Discount or rebate not available to other candidates for the same office and the general public; and
6. The forgiveness of indebtedness or payment of indebtedness by another person, but shall not include the rendering of services by speakers, editors, writers, poll watchers, poll checkers or others, nor the payment by those rendering such services of such personal expenses as may be incidental thereto, nor the exercise of ordinary hospitality;

T. "Reporting person" means any person required to file a statement of interests pursuant to this Section.

2.68.3 Improper Influence

2.68.3.1 No municipal official or municipal employee shall make or participate in making any decision on any issue in which he or she has an economic interest.

2.68.3.2 No municipal official or employee shall make, participate in making, or in any way attempt to use such municipal official's or such employee's position, influence or power to influence or effect any City governmental decision or action in which such municipal official or employee knows or has reason to know that such official or employee has any economic interest. Nothing in this section shall be interpreted so as to preclude the Members of the City Council from voting on City Council Salary appropriations.

2.68.3.3 No municipal official shall accept a political contribution from any city contractor holding any city contract in accordance with Section 2-335 of the City Code of Ordinances.

2.68.4 City-Owned Property

No municipal official, employee or City contractor shall permit the City-owned property under their control to be used in any manner that is inconsistent with any written policy governing the use of such property.

2.68.5 Use or Disclosure of Confidential Information

No current or former municipal official or employee shall use or disclose, other than in the performance of his official duties and responsibilities, or as may be required by law, confidential information gained in the course of or by reason of his position or employment. For purposes of this section, "confidential information" means any information that is not generally available to the general public or could not be obtained from public records pursuant to the Massachusetts Public Records Act, Chapter 66 of the General Laws, as amended.

2.68.6 Employment of Relatives

A. No municipal official or employee shall, after the date of adoption of this ordinance codified in this chapter, hire or advocate for employment, in any City agency in which said official or employee serves or over which he exercises authority, supervision, or control, any person:

1. Who is a relative of said municipal official or employee; or
2. In exchange for or in consideration of the employment of any said municipal official's or employee's relatives by any other municipal official or municipal employee.

B. No municipal official or employee shall use or permit the use of his position to assist any relative in securing employment or contracts with persons over whom the employee or municipal official exercises contract management authority.

2.68.7 Prohibited Acts of City Councilors

A. City Councilors shall not make loans, gifts of value equal to or exceeding two hundred fifty dollars, offers of employment (except when consistent with the discharge of their official duty as Councilor), offers of future employment, or of business or investment opportunities to the Mayor, to heads of City departments or agencies, to the City Solicitor and Assistant Solicitors, or to members of boards or commissions involved in the granting of variances, permits, licenses or other such discretionary or adjudicatory functions.

B. No employee of the City shall simultaneously serve on the City Council during their time of employment.

2.68.8 Prohibited Acts of School Committee Members

School Committee members shall not make loans, gifts of value equal to or exceeding two hundred fifty dollars, offers of employment or future employment (except within the discharge of their official capacity as a School Committee member), or of business or investment opportunities to the Superintendent, Assistant Superintendent(s), the Director of Management Services, the Director of Human Resources or Personnel Director, the Affirmative Action Officer, and any school Principal or Vice Principal.

2.68.9 Advisory Opinions

A. Any employee or municipal official shall be entitled to the opinion of the City Solicitor upon any question arising under this chapter relating to the duties, responsibilities and interests of such person. All requests for such opinions by a subordinate municipal employee shall be made in confidence directly to the Mayor who shall in turn request in confidence such opinion of the City Solicitor. All members of boards or commissions and chief officers or heads of municipal agencies may make direct confidential requests for such opinions of their own account. The City Solicitor shall file such opinion in writing with the City Clerk and such opinion shall be a matter of public record; however, no opinion will be rendered by the City Solicitor except upon the submission of detailed existing facts which raise a question of actual or prospective violation of any provision of this chapter.

B. Any person who acts in reliance on an opinion of the City Solicitor shall be exempt from the penalties provided herein if that person has made a good-faith disclosure of all material facts related to the opinion.

2.68.10 Violations and Penalties

A. Any employee or municipal official who violates this chapter shall be subject to appropriate discipline, including suspension, termination or censure, consistent with any requirements of the State Civil Service Law and the City Charter, as well as to civil or criminal prosecution under any other applicable State laws.

B. A violation of this chapter in connection with the issuance of any permit, license, ruling, determination, or other official action shall be grounds for revocation thereof subject to and in accordance with applicable state and federal laws.

C. All City contracts shall include therein a clause for allowing for termination in the event of a violation of this chapter in connection with the bidding, awarding, administration or performance of the contract. The absence of such a clause shall not negate the validity of this section.

E. Ten taxpayers of the City ("the Taxpayers") shall have legal standing to institute a civil action to recover damages on behalf of the City or to implement any other remedy provided for in this chapter only in accordance with the following:

1. The Taxpayers shall first submit to the City Solicitor a written notice of the intention of the Taxpayers to bring such action with a statement of the grounds therefor;
2. Within sixty days of the receipt thereof the City Solicitor shall submit to the Taxpayers a written response thereto;
3. Thereafter the Taxpayers may institute such civil action unless:
 - a. In their response, the City Solicitor has stated that in their opinion there are no grounds for the institution of such action, with a statement of the reasons for such opinion, or
 - b. In their response, the City Solicitor has stated that the City itself intends to institute the proposed action and the City does in fact institute such action within one hundred twenty days of the issuance of the City Solicitor's written response to the Taxpayers.

2.68.11 Other Remedies

The City or any City agency may maintain an action for injunctive relief to enforce any provision of this chapter, and for an accounting for any economic benefit received by any person in violation of this chapter or other law, and may recover damages for violation of this chapter.

2.68.12 Verification of Receipt

All elected officials shall receive a copy of this Section, and shall signify via signature to the City Clerk, of review and receipt of this Section. The City Clerk shall make available the list of signatures via the City website.

2.68.13 Severability

In the event that any provision of this section shall be held to be unenforceable by a court of competent jurisdiction, then only that specific provision shall not be enforced, and all other sections and provisions shall remain in full force and effect.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. This ordinance shall take effect upon passage.

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read 'Crystal Barnes', written over a horizontal line.

Crystal Barnes
Assistant City Solicitor

IN THE YEAR TWO THOUSAND AND SEVENTEEN

ONE HUNDRED AND FIFTY-FOURTH AMENDMENT TO CHAPTER 2 OF THE
REVISED CODE OF ORDINANCES OF THE CITY OF HOLYOKE,
MASSACHUSETTS 1997

AN ORDINANCE

Be it ordained by the City Council of the City of Holyoke as follows:

SECTION 1. Division 3 entitled "Purchasing Department" of Article III entitled "Departments" of Chapter 2 entitled "Administration" of the Revised Code of Ordinances of the City of Holyoke, Massachusetts, 1997, as amended, is hereby further amended by the following:

DELETING:

Under (b)(3) \$70,000.00

And ADDING in its place:

Under (b)(3) \$40,000.00


ADDING:

At the end of (e)(3): This section shall apply to any contributions made from the time of this ordinance going forward by contractors who hold valid contracts with the city at the time of adoption of this section.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. This ordinance shall take effect upon passage.

APPROVED AS TO FORM:



Crystal Barnes
Assistant City Solicitor