



City of Springfield

Clerks Office - 36 Court Street, Springfield, MA 01103

**City of Springfield
Ethics Commission**














Guidance Manual and Forms

Edward M. Pikula, Esq.
City Solicitor

Wayman Lee, Esq.
City Clerk

TABLE OF CONTENTS

1. What is the purpose of this Manual?.....	3
2. What is the Legal Authority of this Manual?.....	3
3. Will additional guidance be issued?.....	3
4. What is the purpose of the Ethics Ordinance?.....	4
5. What is the role of the Ethics Commission?.....	5
6. How members of the Ethics Commission appointed and what are their terms of office?..	6
7. How long do members of the commission serve?.....	6
8. Can a Commission member be removed?.....	6
9. Are there any restrictions on commissioners?.....	7
10. How is a vacancy on the Commission filled?.....	7
11. How is the commission governed?.....	7
12. Does the commission have reporting requirements?.....	7
13. Does the commission have its own staff?.....	7
14. To what persons does this ordinance apply?.....	8
15. What are the critical elements that persons designated under the Ordinance must immediately begin to implement?.....	.8
16. When are the time periods for filing?.....	9
17. How do I file required forms?.....	10
18. What additional responsibilities exist for persons designated under the Ordinance?.....	10
19. What reporting is required of elected officials under the Ordinance with regard to individuals or entities appearing before them?.....	12
20. What financial reporting is required of candidates?.....	13
21. What financial reporting is required of City officials and employees?.....	13
22. What if someone fails to file a statement of financial interest when required?.....	13
23. What financial reporting is required with regard to lobbying?.....	13
24. Will these reports be made available to the public?.....	14
25. Do the disclosure provisions for candidates overlap state requirements?.....	15
26. How will the Lobbyist provisions be interpreted?.....	15
27. What are the local exemptions with regard to lobbying and how do they	

compare to the state exemptions to the lobbying provisions?.....	18
28. How will a Lobbyist be identified?.....	20
29. What are the penalties under the Ordinance and how is it enforced?.....	20
30. Are there penalties and enforcement provisions under the Ordinance with regard to Lobbying violations?.....	22
31. Will I be retaliated against if I make a complaint?.....	23
32. Will there be any training on the Ordinance?.....	23
33. What are some of the Key Definitions in the Ordinance?.....	24
34. What are the fees under this ordinance?.....	28
35. What are the fines for an agent’s failure to file?	28
Appendix A - The Springfield Ethics Ordinance.....	29
Appendix B - Statement of Financial Interest (“SFI”) with Instructions for filing.....	55
 SFI_Statement_of_Financial_Interest_2008	
Appendix C - Lobbyist Registration and Reporting Forms.....	56
 43E_Lobbyist_Entities_Reporting_Statement	
 43L_Individual_Lobbyist_Reporting_Statement	
 44_Stmt_of_Expenditures_for_Orgs_not_Employing_an_Agent	
 47_Lobbyist_Entities_and_Client_Reporting_Stmt	
 C1_Lobbyist_Client_Registration	
 C2_Lobbyist_Client_Notice_and_Authorization	
 E1_Lobbyist_Entity_Registration	
 E2_Lobbyist_Entity_Employment_Relationship_Registration	
 L1_Lobbyist_Registration	
 L2_Lobbyist_Employment_Relationship_Registration	
 T1_Lobbyist_Termination_Notice	
 W1_Fee_Waiver_Request	

1. What is the purpose of this Manual?

The purpose of this Manual is to establish an initial set of citywide guidelines that city employees and officials, candidates for elected office and lobbyists must follow to implement and effectively manage activities under the recently enacted City Ethics Ordinance and clarify the required steps to meet the requirements and objectives of the Ordinance.

2. What is the Legal Authority of this Manual?

The City of Springfield, Massachusetts (the “City”) enacted an ordinance amending Title 2 of the Revised Ordinances of the City of Springfield (1986) by adding a new chapter 2.100 thereto: Code of Conduct and Ethics, Lobbying, Financial Disclosure. The Ordinance was effective on February 1, 2009.

Under the Ordinance, the City is to prescribe and publish, rules and regulations to carry out the ordinance, including rules governing the conduct of proceedings and, after giving the public an opportunity to comment, publish forms for the statements and reports required to be filed by the Ordinance and make such forms available to any and all persons required to file statements and reports pursuant to the provisions of the Ordinance.

A copy of the Ordinance is attached as Appendix A to this Manual along with a form Statement of Financial Interest (“SFI”) with Instructions for filing an SFI (Appendix B) and Lobbyist Registration and Reporting Forms (Appendix C).

3. Will additional guidance be issued?

Yes. Upon written request a person who is or may be subject to the provisions of this ordinance, the Ethics Commission may request the city solicitor to render advisory opinions on the requirements of said ordinance. An opinion rendered by the city solicitor, until and unless amended or revoked, shall be a defense in an action brought under ordinance and shall be binding on the Springfield Ethics Commission in any subsequent proceedings concerning the person who requested the opinion and who acted in good faith, unless material facts were omitted or misstated by the person in the request for an opinion. Such requests, in so far as they relate to this ordinance, but not in so far as they relate to the State Ethics Law, shall be confidential; provided, however, that the commission may publish such opinions, but the name of the requesting person and any other identifying information shall not be included in such publication unless the requesting person consents to such inclusion.

The City Clerk is the main point of contact for this Ordinance, including requests for opinions which shall be recorded by the City Clerk and forwarded to the City Solicitor.

City Clerk
City of Springfield
36 Court Street, Room
Springfield, MA 01103

Fax. 413/787- 6096
Email: wlee@springfieldcityhall.com

Persons who request an opinion or clarification as to the application of the Ordinance and its requirements may submit written questions via mail or fax or by email to the City Clerk. Copies of all questions and answers will be provided as public records to any persons who request a copy through the City Clerk. The City Solicitor's contact information is as follows:

City Solicitor
City of Springfield
Law Department
36 Court Street, Room 210
Springfield, MA 01103
Phone: 413-787-6085
Fax. 413/787-6173
Email: epikula@springfieldcityhall.com

4. What is the purpose of the Ethics Ordinance?

The Ethics Ordinance establishes a local Ethics Commission for Springfield and a standard of conduct for city officials and employees as well as candidates for elective office and a standard of conduct for municipal agents and lobbyists. It also establishes a requirement for the filing of a statement of financial interests by candidates for elected office and covered city officials.

The provisions of the City Ethics Ordinance supplement the conflict of interest provisions of the State Ethics Law.

The provisions of the Ordinance are intended to ensure the public's trust and confidence that decisions of city officials and city employees are not contaminated by such city official and city employee's personal financial interests.

Massachusetts General Law chapter 268A (the State Ethics Law) governs what public officials and employees may do on the job, what they may do after hours, or on the side, and what they may do after they leave public service.

Nothing in the State Ethics Law prohibits the City from establishing and enforcing additional standards of conduct. All city employees are required to comply with the requirements of the State Ethics Law, including, but not limited to, Sections 2, 3, 17-20, and 23 of the State Ethics Law Chapter 268A, in addition to the provisions of the Ordinance.

In the event of any conflict or inconsistency of this Ordinance with any state law, the provision of broadest or most strict coverage shall control. No provision of this Ordinance shall be construed so as to be inconsistent with state law.

5. What is the role of the Ethics Commission?

1. Prescribe and publish, rules and regulations to carry out this ordinance, including rules governing the conduct of proceedings;
2. Prepare and publish, after giving the public an opportunity to comment, forms for the statements and reports required to be filed by this chapter and make such forms available to any and all persons required to file statements and reports;
3. Prepare and publish, methods of accounting and reporting to be used by persons required to file statements and reports;
4. Make statements and reports filed with the commission available for public inspection and copying during regular office hours upon the written request of any individual who provides identification acceptable to the commission, including his affiliation, if any, at a charge not to exceed the actual administrative and material costs required in reproducing said statements and reports; provided, however, that the commission shall be authorized, in its discretion, to exempt from public disclosure those portions of a statement of financial interest filed pursuant to section 2.100.220 which contain the home address of the filer; and provided, further, that the commission shall forward a copy of said request to the person whose statement has been examined;
5. Compile and maintain an index of all reports and statements filed with the commission to facilitate public access to such reports and statements;
6. Inspect all statements of financial interests filed with the commission in order to ascertain whether any reporting person has failed to file such a statement or has filed a deficient statement. If, upon inspection, it is ascertained that a reporting person has failed to file a statement of financial interests, or if it is ascertained that any such statement filed with the commission fails to conform with the requirements of this ordinance, then the commission shall, in writing, notify the delinquent; such notice shall state in detail the deficiency and the penalties for failure to file a statement of financial interests;
7. Upon written request from a person who is or may be subject to the provisions of this ordinance, request the city solicitor to render advisory opinions on the requirements of said ordinance. An opinion rendered by the city solicitor, until and unless amended or revoked, shall be a defense in an action brought under ordinance and shall be binding on the commission in any subsequent proceedings concerning the person who requested the opinion and who acted in good faith, unless material facts were omitted or misstated by the person in the request for an opinion. Such requests, in so far as they relate to this ordinance, but not in so far as they relate to the State Ethics

Law, shall be confidential; provided, however, that the commission may publish such opinions, but the name of the requesting person and any other identifying information shall not be included in such publication unless the requesting person consents to such inclusion;

8. Preserve all statements and reports filed with the commission for a period of six (6) years from the date of receipt;

9. Act as a civil enforcement agency for violations of all sections of this ordinance.

10. On or before February first of each year the chairman of the commission shall request a list of all major policymaking positions for the governmental bodies listed in section 2.100.020(J) of this ordinance. For each department or other governmental body covered by this ordinance, the executive or administrative head of such department or governmental body; and such persons shall furnish such lists within sixty (60) days. The chairman may add any position that he determines to be a major policymaking position in such governmental body to such list. Any person aggrieved by such action of the chairman may appeal such action to the commission.

6. How members of the Ethics Commission appointed?

One member of the commission shall be appointed by the mayor, one member shall be appointed by the city council and one member shall be appointed by the School Committee. In the event that the mayor and city are unable to agree, the third member shall be determined by the city clerk selecting the name of one member drawn from a pool of two candidates, one each selected by the Mayor and one selected by the city council.

7. How long do members of the commission serve?

The initial appointee of the commission appointed by the mayor shall serve for a three(3) year term. The initial appointee of the city council shall serve for a two (2) year term and other appointee shall serve for one (1) year, and annually thereafter there shall be appointed one member to serve for a three (3) year term.

8. Can a Commission member be removed?

A member may be removed by the mayor for cause, after charges preferred, reasonable notice of the charges and a hearing.

9. Are there any restrictions on commissioners?

No member or employee of the commission shall:

- a. Hold or be a candidate for any other public office while a member or employee, or for one (1) year thereafter;
- b. Hold office in any political party or political committee; or
- c. Participate in or contribute to the political campaign of any candidate for public office.

10. How is a vacancy on the Commission filled?

Any vacancy occurring on the commission shall be filled within ninety (90) days by the original appointing authority. A person appointed to fill a vacancy occurring other than by expiration of a term of office shall be appointed for the unexpired term of the member he succeeds.

11. How is the commission governed?

The commission shall elect a chairperson and vice chair. The vice chair shall act as chairperson in the absence of the chairperson or in the event of a vacancy in that position.

Two (2) members of the commission shall constitute a quorum and two (2) affirmative votes shall be required for any action or recommendation of the commission; the chairman or any two (2) members of the commission may call a meeting; advance notice of all meetings shall be given to each member of the commission and to any other person who requests such notice.

The commission is a governmental body subject to the state Open Meeting Law.

12. Does the commission have reporting requirements?

The commission shall annually report to the mayor and the city council concerning the action it has taken; the names and salaries and duties of all individuals in its employ and the money it has disbursed; and shall make such further reports on matters within its jurisdiction as may appear necessary.

13. Does the commission have its own staff?

The commission shall utilize staff of the city clerk's office and law department, subject to appropriation, and such other staff, including but not limited to clerks, accountants, and investigators, as are necessary to carry out its duties pursuant to this ordinance. The city clerk shall be responsible for the administrative operation of the

commission and shall perform such other tasks as the commission shall determine. The city solicitor shall be the chief legal officer of the commission. The clerk and city solicitor may employ, subject to appropriation, the services of experts and consultants necessary to carry out their duties. The police commissioner may make available to the commission personnel and other assistance as the commission may request.

14. To what persons does this ordinance apply?

Generally, the Ordinance applies to all “covered city officials”, “Elected officials,” “Lobbyist entities” and “municipal agents” as those terms are defined in the Ordinance.

“Covered city official” means all officials elected by popular vote or the head, deputy or assistant head of any department, board, commission or division of the city government, and the Springfield public schools’ superintendent, assistant or deputy superintendents, business manager, personnel director, and principals.

“Elected official” means a city official who holds an elected office.

“Lobbyist entity” means an entity providing lobbyist services, consisting of at least one municipal agent, including foreign or domestic corporation, association, sole proprietor, partnership, limited liability partnership or company, joint stock company, joint venture or any other similar business formation.

“Municipal agent” means a firm, company, partnership or person who for monetary compensation or its equivalent does any act to influence the decision of any covered city official where such decision concerns permitting, or the amendment, adoption, defeat, postponement or enforcement related thereto, legislation or the adoption, defeat or postponement of a standard, rate, rule, enforcement or regulation pursuant thereto, or any act to communicate directly with a covered city official to influence a decision concerning policy or procurement, or a firm, company or partnership which employs individuals for such purposes.

Other key definitions used under the Ordinance can be found in the Ordinance and some are discussed at the end of this manual.

15. What are the critical elements that persons designated under the Ordinance must immediately begin to implement?

The City Ethics Ordinance requires every designated public employee, elected public official, and candidate to file an annual Statement of Financial Interests. (SFI).

In addition, the City Ethics Ordinance requires a municipal agent and lobbyist entity to register and file an annual disclosure statement with the city clerk.

A client retaining the services of a municipal agent, or lobbyist entity, must also file an annual disclosure statement with the city clerk.

16. When are the time periods for filing?

Under the Ordinance a municipal agent and lobbyist entity shall file an annual disclosure statement with the city clerk not later than December 15 of the year proceeding the disclosure year.

A client or lobbyist entity hiring, employing or agreeing to employ a lobbyist entity or municipal agent after January 1 of the registration year shall, within ten (10) days after such employment or agreement, cause the name of the lobbyist entity or municipal agent to be registered with the city clerk as provided in this section.

Notice of termination of such employment shall also be filed promptly with the City Clerk by the client, municipal agent, or lobbyist entity.

On or before the fifteenth day of July, complete from January first through June thirtieth; and the fifteenth day of January, complete from July first to December thirty-first of the preceding year, every municipal agent appearing on the docket shall render to the city clerk an itemized statement, under oath, listing all campaign contributions as defined in section one of chapter fifty-five of the General Laws; all expenditures, and the total amount thereof, incurred, contributed or paid during the reporting period in the course of his/her employment as an municipal agent and all expenditures made for or on behalf of city officials and city employees incurred or paid during the reporting period, except that the municipal agent shall not be required to report such expenditures not in the course of his/her employment made for or on behalf of the immediate family of such municipal agent or a relative within the third degree of consanguinity of the municipal agent or city employee or of his/her spouse or the spouse of any such relative; and except that in the case of all expenditures the municipal agent shall not be required to itemize the expenditures of any one day in which the amount incurred or paid did not total thirty-five dollars (\$35.00) or more.

Every candidate for local public office shall file a statement of financial interest for the preceding calendar year with the city clerk on or before the date on which a certificate of nomination or nomination papers for such candidate are submitted to the city clerk.

Every covered city official shall file a statement of financial interest for the preceding calendar year with the city clerk on or before the last Tuesday in May of the year in which such covered city official first enters such public office and of each year that such covered city official holds such office, and on or before May first of the year after such covered city official leaves such office

17. How do I file required forms?

These forms may be filled in electronically using a current version of the free **Adobe PDF Reader** plugin. Save a copy of each form to your computer before filling in fields or your data will be lost. City employees may submit these forms via email from their City accounts. All others may print the completed forms, sign where required, and file via regular mail:

Springfield City Clerk's Office
City Hall, Room 123
36 Court Street
Springfield, MA 01103

For questions about filing these forms, please contact City Clerk Wayman Lee at (413)787-6094 M-F 9-4, Thu 9-6 or email wlee@springfieldcityhall.com.

18. What additional responsibilities exist for persons designated under the Ordinance?

The Ethics Ordinance identifies areas for conflict of interest for city officials and employees in several categories and contains prohibitions with regard to each. The on the job areas include bribes, gratuities and nepotism. More specifically:

- attempting to use his or her position to influence any city governmental decision or action in which he or she has an economic interest distinguishable from its effect on the public generally or, with respect to the city council, any economic interest distinguishable from its effect on all councilors generally. This provision does not prohibit the mayor and city council from considering, voting on and authorizing their own compensation;
- engaging in or permitting the unauthorized use of city-owned property or any other property being held by the city for public purposes;
- using or disclosing confidential information which he/she has gained by reason of his/her official position or authority;
- having an economic interest, directly or indirectly, in work or business of the city, or in the sale to the city of any property or service when consideration for the contract, work, business or sale is paid with funds belonging to or administered by the city

To the degree allowed under the State Ethics Law (*M.G.L. c. 268A*) it shall not be a violation of this section if:

1. The work, business or sale of a property or services is wholly unrelated to the duties and responsibilities of the city employee and the city employee discloses such interest to the individual responsible for his/her appointment or contract of hire; or in the case of an elected official, files a disclosure with the city clerk;

2. A city employee acting in good faith discovers an actual or prospective violation of this section and, within 30 days, files a disclosure of such economic interest with the city clerk and terminates or disposes of the interest; or

3. The economic interest constitutes compensation for property taken pursuant to the city's eminent domain power.

- appointing or advocating for employment, in any city agency in which said official or employee serves, or over which he/she exercises authority, supervision, or control, any person (i) who is a relative of said official or employee, or (ii) in exchange for or in consideration of the employment of any of said city officials or city employees relatives by any other city official or city employee. This includes exercising contract management authority over a contract involving any relative of the city official or city employee. This also includes assisting any relative in securing employment or contracts with persons over whom the city official or city employee exercises contract management authority. The employment of or contracting with a relative of such a city official or city employee by such a person within six months prior to, during the term of, or six months subsequent to the period of a city contract shall be evidence that said employment or contract was obtained in violation of this article.
- the Mayor and City Council members are specifically prohibited from making loans, gifting of value equal to or exceeding fifty dollars, or offering of employment or future employment, except within the discharge of their official capacities, or of business or investment opportunities to heads of city agencies, to the city solicitor and assistant city solicitors or to members of boards or commissions involved in the granting of variances, permits, licenses or other such discretionary, or adjudicatory functions.
- School committee members are specifically prohibited from making loans, gifting of value equal to or exceeding fifty dollars, or offering of employment or future employment, except within the

discharge of their official capacities, or of business or investment opportunities to the superintendent, assistant or deputy superintendents, the business manager, the personnel director, the principals of the Springfield public schools, or consultants or legal advisers contracted to the school department.

- knowingly and willfully soliciting or accepting from another city employee, gifts with an aggregate value of fifty dollars (\$50.00) or more in a calendar year unless given for a wholly social purpose.
- With regard to lobbying, no person shall make any agreement whereby any compensation or thing of value is to be paid to any person contingent upon a decision as described in the definition of "municipal agent", or the passage or defeat of any permit, legislation or the approval or veto of any legislation or permit. No person shall agree to undertake to influence such a decision, or to communicate to influence such a decision or to promote, oppose or influence legislation or to communicate with members of the city council, or to advocate approval or veto by the mayor for consideration to be paid upon the contingency of the outcome of such a decision or that any legislation is passed or defeated. Determination of such shall render the legislation or permit, null and void. Nothing in this section shall be construed to prohibit any salesperson engaging in legitimate city business on behalf of a company from receiving compensation or a commission as part of a bona fide contractual arrangement with that company.

19. What reporting is required of elected officials under the Ordinance with regard to individuals or entities appearing before them?

When any individual or entity appears before the city council, the city school committee, and/or any city board or commission which has the authority to grant or recommend any license, permit, certificate, variance, site plan approval, or any other permission or approvals and such individual or entity has, within the preceding five (5) years paid compensation to a city councilor, city school committee member or board or commission member, or to any entity or person from which such city councilor, city school committee member or board or commission member has derived income, the city councilor, school committee member or board or commission member who has received such compensation, directly or indirectly, shall, prior to each appearance of such individual or entity before the city council, school committee or city board or commission, publicly disclose orally and in writing that he/she has received such compensation, directly or indirectly. Such written disclosure shall be filed with the city clerk, and in a form prescribed and provided by the city clerk, which shall be the same as - or similar to - the State Ethics Law disclosures pursuant to MGL c. 268A sec 23(b)(3).

No city councilor, school committee member or board or commission member may take any official action on matters which would foreseeably affect his/her own financial interests, or the financial interests of his/her immediate family members, partners, employers (other than the municipality), those with whom he/she is negotiating or has an arrangement concerning prospective employment, or organizations for which he serves as an officer, director, partner or trustee. When such matters come before city councilors or school committee members or board or commission members, they shall recuse themselves by departing the room wherein any discussion relating to such matters is to take place. The recused city councilor, city school committee member and/or city commission member shall not return until all such discussion relating in any way to such matters have been completed.

20. What financial reporting is required of candidates?

Every candidate for local public office shall file a statement of financial interest for the preceding calendar year with the city clerk on or before the date on which a certificate of nomination or nomination papers for such candidate are submitted to the city clerk. Every candidate for local public office who has not filed nomination papers with the city clerk, but on whose behalf a statement of organization of a political committee has been filed with the director of campaign and political finance under section five of chapter fifty-five of the General Laws, and who is seeking public office by the so-called "write in" or "sticker" method, shall within three days after such filing file a statement of financial interests with the city clerk.

21. What financial reporting is required of City officials and employees?

Every covered city official shall file a statement of financial interest for the preceding calendar year with the city clerk on or before the last Tuesday in May of the year in which such covered city official first enters such public office and of each year that such covered city official holds such office, and on or before May first of the year after such covered city official leaves such office; provided, however, that no covered city official shall be required to file a statement of financial interests for the year in which he/she ceased to be a city official or city employee if he/she served for less than thirty days in such year.

22. What if someone fails to file a statement of financial interest when required?

No covered city official shall be allowed to continue in his/her duties or to receive compensation from public funds unless he/she has filed a statement of financial interests with the city clerk as required by this article.

23. What financial reporting is required with regard to lobbying?

On or before the fifteenth day of July, complete from January first through June thirtieth; and the fifteenth day of January, complete from July first to December thirty-first of the preceding year, every municipal agent appearing on the docket shall render to the city

clerk an itemized statement, under oath, listing all campaign contributions as defined in section one of chapter fifty-five of the General Laws; all expenditures, and the total amount thereof, incurred, contributed or paid during the reporting period in the course of his/her employment as an municipal agent and all expenditures made for or on behalf of city officials and city employees incurred or paid during the reporting period, except that the municipal agent shall not be required to report such expenditures not in the course of his/her employment made for or on behalf of the immediate family of such municipal agent or a relative within the third degree of consanguinity of the municipal agent or city employee or of his/her spouse or the spouse of any such relative; and except that in the case of all expenditures the municipal agent shall not be required to itemize the expenditures of any one day in which the amount incurred or paid did not total thirty-five dollars (\$35.00) or more. Such itemized accounting shall include, but not be limited to, specific expenditures for meals, gifts, transportation, entertainment, advertising, public relations, printing, mailing and telephone; and shall also include the names of the payees and the amount paid to each payee and shall further include the names of the candidate or political committee to whom or to which the contribution was made, the amount and date of each contribution, and the names of city employees and officials for whom payments have been made.

When such expenditure is for meals, entertainment or transportation, said expenditure shall be identified by date, place, amount, and the names of all persons in the group partaking in or of such meal, entertainment or transportation. No expenditure shall be split or divided for the purpose of evading any provision of this section. The city clerk shall, within thirty days of receipt of such accounting, notify persons whose names appear therein as having received campaign contributions, meals, transportation or, entertainment, as to the nature of the contribution or expenditure claimed, the date and amount of the contribution or expenditure, and the person or persons who reported the contribution or expenditure.

Every municipal agent shall include in the statement required by this section a list of all matters the municipal agent acted to promote, oppose or influence during the reporting period in the course of his/her employment.

24. Will these reports be made available to the public?

Under the Ordinance the city clerk prescribes and makes available the appropriate statement forms which are open and accessible for public inspection during normal working hours.

The city clerk also keeps a docket which may be in the form of an electronic database. All information required to be filed under the Ordinance must be organized into the docket and posted on the city website and otherwise and be made available for public inspection during normal business hours.

However, nothing in the Ordinance is to be construed to require the disclosure of information which is privileged by law.

25. Do the disclosure provisions for candidates overlap state requirements?

Under the Ordinance, the City's Ethics Commission is charged, with administering the process for financial disclosure by certain municipal officials, candidates for elective office and registration and reporting for lobbyists. The state Office of Campaign and Political Finance (OCPF) is an independent state agency that administers Massachusetts General Laws Chapter 55, the campaign finance law. Established in 1973, OCPF is the depository for disclosure reports filed by candidates and committees under M.G.L. Chapter 55.

Candidates running citywide in the state's five cities with populations of at least 100,000: Boston, Cambridge, Lowell, Springfield and Worcester must report to OCPF. Municipal candidates in Springfield who file their reports with their local officials are still subject to oversight by OCPF.

The City's Ethics Commission receives reports filed by candidates, reviews them to ensure accurate disclosure and legal compliance, and, where appropriate, conducts legal reviews.

Under the provisions of the Ordinance, the designated employees and officials are subject to the disclosure requirements even though they are also subject to the jurisdiction of the OCPF.

The financial disclosure provisions in the City Ordinance generally mirror the provisions of 268B (Financial Disclosure by Certain [State] Public Officials and Employees). 268B generally applies to state-level public employees and elected officials. It does not apply to city employees. The City Ordinance applies the spirit of 268B to city employees and city elected officials. As they do not affect the same groups of employees and elected officials, there is no conflict between the Ordinance and 268B.

On occasion when questions do arise about interpretation of the specific provisions of the Financial Disclosure sections of the Ordinance, it will be helpful to look to the State Ethics Commission interpretations of the state analogue.

26. How will the Lobbyist provisions be interpreted?

The Lobbyist restrictions found in the City ordinance section 2.100.140 through 2.100.200 are not found in the State Ethics Law Chapter 268A. However, there are similar provisions found in another state law; section 39 of chapter 3 of the General Laws, which was significantly changed as of July 1, 2004.

Under the state law:

“Each legislative agent, executive agent and lobbyist entity shall file an annual registration statement with the state secretary on forms prescribed and provided by the state secretary.”

A “Lobbyist Entity” is defined under state law similar to the City Ordinance provisions as:

“an entity providing lobbyist services, consisting of at least one legislative or executive agent, including foreign or domestic corporation, association, sole proprietor, partnership, limited liability partnership or company, joint stock company, joint venture or any other similar business formation.”

The City Ordinance also mirrors Section 41 of Chapter 3 which provides:

“A client retaining the services of a legislative agent, executive agent or lobbyist entity shall also file an annual registration statement with the state secretary on forms prescribed and provided by the state secretary. The annual registration shall be completed not later than December 15 of the year preceding the registration year.”

Under the State law, all lobbyists, lobbyist entities and clients are required to register with the State Secretary on or before December 15 for the upcoming calendar year.

The local ordinance as first proposed was similar to the state statute but differed in that Section 2.100.020 as first proposed defined a “municipal agent” in a manner much broader than the state law, as the local law proposal included “permitting, or the amendment, adoption, defeat, postponement or enforcement related thereto”.

In order to understand the significance of the distinction, some history of state lobbying laws is important. “The terms “lobby”, “lobbying”, or “lobbyist” have traditionally been applied in connection with efforts to promote, oppose, or influence the passage or defeat of legislation.” See 40 Mass. Prac., Administrative Law & Practice § 1494 et seq.

Prior to 1973, statutory regulation of lobbying activities in Massachusetts only covered activities relating to the promoting, opposing, or influencing of the passage or defeat of state legislation and did not in any way apply to efforts to influence or affect any of the decisions made by state administrative agencies or officials.

Chapter 981, § 2 of the Acts of 1973 expressly defined “legislative agent” under Massachusetts law for the first time to include “any person who for compensation or reward does any act ... to influence the decision of any member of the Executive branch where such decision concerns legislation or the adoption, defeat, or postponement of a standard, rate, rule or regulation pursuant thereto.”

The lobbying law now regulates “executive agents” as well as “legislative”. Where the main purpose of the 1973 revisions to the lobbying law was the disclosure of lobbying, especially of the legislative branch, the revised lobbying law also covers any person who, for compensation or reward, does any act to influence an official decision of an employee of the executive branch or an authority. See, generally, Cheryl Cronin, “Brief History and Overview: The Massachusetts Lobbying Law and Related Activity,” *The Conflict of Interest and Lobbying Laws* (94-01.05: Mass. Continuing Legal Education, 1993), 87–95.

Analogizing the proposed ordinance, the local ordinance like the state law not have only regulated “lobbying” before the City’s Legislative body (the City Council) but also regulates lobbying within the City’s “Executive Branch” i.e. the various municipal boards, commissions, and department with the definition of “municipal agents”.

The State Statute M.G.L.A. c. 3, § 39 expressly defines “executive agent” as “a person who for compensation or reward does any act to influence the decision of any officer or employee of the executive branch or an authority, including but not limited to statewide constitutional officers and employees thereof, where such decision concerns legislation or the adoption, defeat or postponement of a standard, rate, rule or regulation pursuant thereto, or any act to communicate directly with a covered executive official to influence a decision concerning policy or procurement.”

M.G.L.A. c. 3, § 39 further expressly provides that the term “executive agent” includes “a person who, as part of his regular and usual business or professional activities and not simply incidental thereto, attempts to influence any such decision, whether or not any compensation in addition to the salary for such activities is received for such services; provided, however, that for purposes of this definition a person shall be presumed to engage in activity covered by this definition in a manner that is simply incidental to his regular and usual business of professional activities if he engages in any activity or activities covered by this definition for not more than fifty hours during any reporting period or receives less than five thousand dollars during any reporting period for any activity or activities covered by this definition.”

Accordingly, any person, including an attorney, who for compensation does any act to influence the decision of any officer or employee of the executive branch or an authority, where such decision concerns legislation, regulations, or the decision of a “covered executive official” concerning policy or procurement, is an executive agent, provided that the person spends more than fifty hours and receives at least five thousand dollars for such activities during a reporting period.

As noted in discussion contained in the Mass. Practice treatise, “It was the inclusion of the provision concerning “**policy or procurement**” in the definition of executive agent that both dramatically expanded the previous definition of legislative agent and raised troubling questions about the scope of the revised lobbying law. One commentator made the following points about this revision:

There is little doubt that the interpretation and application of this provision will principally focus on the question of what constitutes “policy or procurement.” The term “policy” is, in particular, quite broad, and questions abound. At what stage in discussion in an executive agency does a matter become policy? Is virtually every act by government an establishment of some sort of policy, other than certain ministerial duties? Will “procurement” apply to the procuring of legal services to be provided

by law firms to state agencies or authorities? See Cheryl Cronin, “Brief History and Overview: The Massachusetts Lobbying Law and Related Activity,” *The Conflict of Interest and Lobbying Laws (94-01.05: Mass. Continuing Legal Education, 1993)*, at 91.

“As a result of the confusion and controversy engendered by these revisions, the Legislature further revised the statute in 1995 (See Chapter 80 of the Acts of 1995.) The statute, as revised, defines an “act to communicate directly with a covered executive official to influence a decision concerning policy or procurement” to include “any direct communication by a person to such official by telephone, mail, commercial messenger, facsimile transmission, electronic mail, other direct means or in person.” M.G.L.A. c. 3, § 39. However, the state statute contains exemptions to narrow the scope of coverage and prevent “confusion and controversy”.

27. What are the local exemptions with regard to lobbying and how do they compare to the state exemptions to the lobbying provisions?

The state statute specifically excludes the following activities:

- (a) a request for a meeting or a request for the status of an action or any similar administrative request, if the request does not include an attempt to influence a covered executive official;
- (b) an act made in the course of participation in an advisory committee or task force;
- (c) providing information in writing in response to a written request for specific information by an officer or employee of the executive branch or an authority;
- (d) an act required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of the executive branch or an authority;
- (e) a communication made to an officer or employee of the executive branch or an authority with regard to a judicial proceeding or a criminal or civil law enforcement inquiry, investigation, or proceeding, or a filing or proceeding that the executive branch or an authority is required by statute or regulation to maintain or conduct on a confidential basis;
- (f) an act made in compliance with written agency procedures regarding an adjudicatory proceeding as defined in M.G.L.A. c. 30A, § 1;
- (g) a petition for action by the executive branch or an authority made in writing and required to be a matter of public record pursuant to established procedures of such executive branch or authority;
- (h) an act made on behalf of an individual with regard to that individual's benefits, employment, or other personal matters; (i) a response to a request for proposals or similar invitation by an officer or employee of the executive branch for information relevant to a contract; (j) participation in a bid conference; and (k) an appeal or request for review of a procurement decision. See M.G.L.A. c. 3, § 39.

There are similar exceptions in the local proposed ordinance that were added after the issue was brought to the attention of the City Council through an opinion of the City Solicitor. It was suggested that the inclusion of exceptions that mirror the state law may avoid the types of confusion and controversy discussed in the opinion with regard to the state law.

The local ordinance exemptions are provided for as set forth below:

2.100.200 Advocacy Restrictions(Lobbying) – Exemptions. The above sections, 2.100.140 – 2.100.190, inclusive, shall not apply to employees or agents of the commonwealth or of the city, or of the city’s redevelopment authority, housing authority or water and sewer commission who are acting in their capacity as such employees or agents or to any person requested to appear before any committee or official of the city. See also exemptions to “Act” to communicate directly with a covered city official to influence a decision concerning policy, permitting or procurement” contained in 2.100.020 par A.

The exemptions from “to Act” found in the City Ordinance mirror the state law exemptions. Specifically the definition of “Act” found in 2.100.020 par A of the Ordinance states:

“‘Act’ to communicate directly with a covered city official to influence a decision concerning policy, permitting or procurement”, means any direct communication by a person to such official by telephone, mail, commercial messenger, facsimile transmission, electronic mail, other direct means or in person, but shall not be deemed to include the following activities:

- (1) A request for a meeting, a request for the status of an action or any similar administrative request, if the request does not include an attempt to influence a covered city official;
- (2) An act made in the course of participation in an advisory committee or task force;
- (3) Providing information in writing in response to a written request for specific information by an officer or employee of the city;
- (4) An act required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation or other action of the city;
- (5) a communication made to a city official or employee with regard to a: a) judicial proceeding or a criminal or civil law enforcement inquiry, investigation or proceeding; or b) filing or proceeding that the city, is specifically required by statute or regulation to maintain

- or conduct on a confidential basis; if the city is charged with responsibility for such proceeding, inquiry, investigation or filing;
- (6) A petition or application for action by the city made in writing and required to be a matter of public record;
 - (7) An act made on behalf of an individual with regard to that individual's benefits, employment or other personal matters;
 - (8) A response to a request for proposals or similar invitation by an officer or employee of the city for information relevant to a contract;
 - (9) Participation in a bid conference;
 - (10) An appeal or request for review of a procurement decision.

28. How will a Lobbyist be identified?

Upon registration, the city clerk shall issue to each municipal agent, a nontransferable identification card that shall include the person's name and photograph. All municipal agents shall submit three (3) passport-sized photographs to the city clerk upon registration.

29. What are the penalties under the Ordinance and how is it enforced?

The ethics Ordinance contains penalty provisions. Specifically, the Ordinance states:

- 2.100.240 Penalties. (a) Any city official or city employee who violates this chapter shall be subject to appropriate discipline by the appointing authority 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) Alleged violations of the State Ethics Law, or this chapter by the mayor, city councilors, members of the school committee and the superintendent of schools shall be directly filed with the District Attorney, and the State Ethics Commission.
- (c) Any person who has been convicted of a knowing or willful violation of the State Ethics Law shall be deemed to have vacated his or her office from the date of conviction, and shall not be eligible to serve in any other elective or appointive office or position under the city.

- (d) Any person, not otherwise provided for by this chapter, shall immediately forfeit his or her office or position, upon conviction for a knowing or willful violation of this chapter.
- (e) All city contracts shall include therein a clause for termination in the event of a violation of this chapter in connection with the bidding, awarding, administration or performance of the contract.
- (f) Any permit, license, ruling, determination or other official action taken in violation of this chapter shall be void; provided however, that in the event that voiding would substantially damage the city or innocent third parties, then the city entity responsible for such official action may, subject to the prior approval of the mayor, preserve, in whole or in part, the permit, license, ruling, determination or other action.
- (g) A knowing or willful violation of this chapter shall constitute a misdemeanor, and shall be punishable by a fine of not more than three hundred dollars (\$300.00) per offense.

The Ordinance provides for civil recovery:

2.100.250 Recovery of Damages and Other Remedies.

- (a) The city may bring a civil action against any person who acted to his or her advantage in violation of this chapter, to recover damages in the amount of the economic advantage or five hundred dollars (\$500), whichever is greater.
- (b) Consistent with section 21 of the State Ethics Law, the city may recover the amount of any gift given in violation of sections 2 or 3 of the State Ethics Law.
- (c) The city or any city agency may maintain an action for an accounting for any economic benefit received by any person in violation of this chapter or other law.

Ordinance violations are prosecuted in District Court. Under the ordinance, a person accused of violating the Ordinance would be subject to prosecution in District Court, and the procedures applicable to prosecution of other Ordinance violations would similarly apply to the alleged violation of the proposed Ordinance.

The City Ordinance provide in Section 1.16.000 “Criminal Complaint and Penalty.”

“Any person violating any chapter or section of the revised ordinances may be penalized by indictment or on complaint brought in the district court. Except as may otherwise be provided by law or a specific penalty enumerated in the ordinance, the maximum penalty for each violation, or offense, brought in such manner, shall be three hundred dollars. (as amended 09/15/1987)”

The City Charter, as codified in Chapter 43, Section 27 also provides for a criminal penalty. This provision would be in addition to and not pre-empt the ordinance violation, but the Ordinance violation may be considered as a lesser included offense of the certain circumstances involving a municipal contract.¹ However, this is a question left for the courts and enforcing authority, and beyond the scope of this manual.

Non criminal disposition is provided through Chapter 40, Section 231D for those Ordinance violations enumerated in City of Springfield Ordinance Section 1.16.010 “Non-criminal Disposition and Penalties” which provides:

“Any person who violates any of the provisions of the revised ordinances which are enumerated in this section may be penalized by a non-criminal disposition as provided in General Laws, chapter 40, section 21D. The non-criminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board or department which is subject to specific penalty. Without intending to limit the generality of the foregoing, it is the intention of this provision that the following ordinances are to be included with in the scope of this subsection, that the specific penalties as listed herein shall apply in such cases and that, in addition to police officers, who shall in all cases be considered enforcing persons for the purpose of this provision, the municipal personnel listed for each section, if any, shall also be enforcing persons for such sections. Each day on which any violation exists shall be deemed to be a separate offense.”

The City Council may provide for non-criminal disposition of violations of the Ethics Ordinance, by amending section 1.16.10 to include the Ethics Ordinance as an enumerated violation.

As noted in the City Ordinances, police officers are the enforcing authority for Ordinance violations. However, should the Ethics Ordinance be enumerated for non criminal disposition, then addition municipal personnel may listed as an enforcing authority as provided in Section 1.16.010.

30. Are there penalties and enforcement provisions under the Ordinance with regard to Lobbying violations?

Violation of any provision of this Article shall be punished by a fine of three hundred dollars (\$300.00). In addition, the city clerk shall report all violations of this Article immediately to the city solicitor.

¹ “[T]he doctrine of a lesser included offense serves a public purpose: it ‘allows the jury ... to convict of the offense established by the evidence, rather than forcing it to choose between convicting the defendant of an offense not fully established by the evidence or acquitting, even though the defendant is clearly guilty of some offense.’ ” *Commonwealth v. Walker*, 42 Mass.App.Ct. 14, 16, 674 N.E.2d 249, S.C., 426 Mass. 301, 687 N.E.2d 1246 (1997), quoting from the Model Penal Code § 1.07 comment 5, at 132 (1985).

Any person acting as a municipal agent who, after being afforded a hearing and due process, is found to have violated any provision of this Article shall, in addition to such fine, be disqualified from acting as a municipal agent for a period of five (5) years after such finding.

The city clerk shall inspect all statements required by this article filed with him if it appears that any person has failed to file such statement as required by said sections, or if it appears to the city clerk that any such statement filed with him does not conform to law, the city clerk shall within a reasonable time notify the delinquent person, group or organization in writing.

Upon failure to file a statement within fourteen (14) days after receiving notice under this section, or if any statement filed after receiving notice indicates any violation of this article the city clerk shall within a reasonable time notify the district attorney thereof and shall furnish him with copies of all papers relating thereto.

31. Will I be retaliated against if I make a complaint?

No city official or city employee shall intimidate, threaten, coerce, or otherwise take adverse action against any individual who in good faith makes a complaint to the mayor or the state ethics commission regarding any alleged violation of this chapter or the State Ethics Law by any city official or city employee of the city.

32. Will there be any training on the Ordinance?

The city clerk shall cause a copy of this chapter to be distributed to every elected and appointed city official or city employee within thirty (30) days of their entering upon the duties of their office or employment. The personnel director shall cause a copy of this chapter to be distributed to all other employees of the city within thirty (30) days of their entering upon the duties of their employment.

In order to assure that all city officials and city employees of the city are familiar with their responsibilities and obligations under this chapter and the State Ethics Laws, the mayor shall at regular intervals provide for training on the meaning and application of this chapter and the State Ethics Laws and every elected and appointed city official and city employee shall be required to attend at least one (1) such session after beginning the duties of his/her employment.

On its website the city shall provide a link to this chapter; the Massachusetts State Ethics Commission (<http://www.mass.gov/ethics/>); and the Massachusetts Office of Campaign and Political Finance, or OCPF (<http://www.mass.gov/ocpf/>)

33. What are some of the Key Definitions in the Ordinance?

“City employee” and “City official” means:

any person who holds any elected or paid position in the city. “City employee” and “City official” shall expressly include all members of the following city boards and commissions, whether paid or unpaid:

- Appeals (zoning), Board of
- Board of Assessors
- Conservation Commission,
- Cultural Council, Springfield
- Election Commission, Springfield
- Historical Commission, Springfield
- Library Commission, Springfield
- License Commissioners, Board of
- Park Commission
- Personnel Board
- Planning Board
- Public Health Council
- Public Works, Board of
- Retirement Board
- Riverfront Development Commission
- School Building Commission
- School Committee
- Taxi and Livery Commission
- Traffic Commission
- Any other city board or commission that has authority to expend public funds (other than to approve reimbursements for expenses) or any city board or commission which has authority to grant or recommend any license, permit, certificate, variance, site plan approval, or any other permission or approval.

For purposes of this chapter all officers and directors of the Springfield Library Foundation, Inc. and members of the Barney Trust Fund shall be considered a “city official.”

Note persons who are not considered city employees under this chapter may still be considered a “municipal employee” under the State Ethics Law *M.G.L. c. 268A*.

“Consanguinity” means:

related by blood. The degree of relationship by consanguinity between an individual and a relative is determined by the number of generations that separate them. A parent and child are related in the first degree; a grandparent and grandchild, in the second degree; a great-grandparent and great-grandchild, in the third degree; and so on.)

“Contract management authority” means:

personal involvement in or direct supervisory responsibility for the formulation or execution of a city contract, including without limitation, the preparation of specifications, evaluation of bids or proposals, negotiation of contract terms or supervision of performance.

“Gift” means:

1. A delivery of goods, payment, entertainment, subscription, advance services or anything of value, unless consideration of equal or greater value is received; or
2. The difference in an amount paid for goods or services less their fair market value; but
3. It shall not mean 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 good or services received from a relative within the third degree of consanguinity of the recipient, the recipient’s spouse or the spouse of any such relative.

“Economic interest” means:

a financial interest, whether vested or contingent, legal or beneficial, with a present fair market value of greater than two hundred fifty dollars (\$250.00), which is distinguishable from that of the public generally.

“Income” means:

income from whatever source derived, whether in the form of a fee, salary, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of recompense or any combination thereof; provided, however, that interest from savings accounts or from government obligations other than those of the commonwealth or any political subdivision thereof or any

public agency or authority created by the general court, alimony and support payments, proceeds from a life insurance policy, retirement or disability benefits, and social security payments shall not be considered income for the purposes of this chapter;

“Lobbyist entity” means:

an entity providing lobbyist services, consisting of at least one municipal agent, including foreign or domestic corporation, association, sole proprietor, partnership, limited liability partnership or company, joint stock company, joint venture or any other similar business formation.

“Municipal agent” means:

a firm, company, partnership or person who for monetary compensation or its equivalent does any act to influence the decision of any covered city official where such decision concerns permitting, or the amendment, adoption, defeat, postponement or enforcement related thereto, legislation or the adoption, defeat or postponement of a standard, rate, rule, enforcement or regulation pursuant thereto, or any act to communicate directly with a covered city official to influence a decision concerning policy or procurement, or a firm, company or partnership which employs individuals for such purposes. The term "municipal agent" shall include a person who, as part of his/her regular and usual business or professional activities and not simply incidental thereto, attempts to influence any such decision, whether or not any compensation in addition to the salary for such activities is received for such services; provided, however, that for the purposes of this definition a person shall be presumed to engage in activity covered by this definition in a manner that is simply incidental to his/her regular and usual business or professional activities if he/she engages in any activity or activities covered by this definition for not more than fifty hours during any reporting period or receives less than five thousand dollars during any reporting period for any activity or activities covered by this definition, or firm, company or partnership who employs individuals for such purposes. For purposes of this section reporting period shall mean six (6) month periods from January first through June thirtieth and July first through December thirty-first.

“Policy” means:

a plan or course of action which is applicable to a class of persons, proceedings or other matters and which is designed to influence or determine the subsequent decisions and actions of any covered city employee, including, but not limited to, a plan or course of action which would constitute a “regulation”. The term shall not include the adjudication or determination of any rights, duties, or obligations of a person made on a case by case basis, including but not limited to the issuance or denial of a license, permit, or certification or a disciplinary action or investigation involving a person.

“Political contribution” means:

a contribution of money or anything of value to an individual, candidate, political committee, or person acting on behalf of an individual, candidate or political committee, for the purpose of influencing the nomination or election of said individual or candidate, or for the purpose of promoting or opposing a charter change, referendum question, constitutional amendment, or other question submitted to the voters, and shall include any:

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, or 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, or person acting on behalf of 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 said 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 to the general public; and
6. 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;

“Procurement” means:

the buying, purchasing, renting, leasing or otherwise acquiring or disposing, by contract or otherwise, of supplies, services or construction or the acquisition or disposition of real property or any interest therein, including, but not limited to, the purchase, lease or rental of any such real property or the granting of easements or rights of way therein; but not including any item of expenditure the value of which is twenty-five thousand dollars or less

“Relative” means:

person who is related to an official or employee as spouse, as a descendent of any grandparent of such official or employee, whether by the whole-or half-blood or by adoption, or as spouse of any of the foregoing and any person who resides with an employee or an official

34. What are the filing fees under the Ordinance?

Under 2.100.150 (E) The city clerk shall assess each lobbyist entity an annual filing fee of five hundred dollars (\$500.00) to register the entity on the docket. The city clerk shall assess each municipal agent an annual filing fee of one hundred dollars (\$100.00) upon entering the agent's name on the docket. The city clerk may, in his/her discretion and upon written request, waive the filing fees not a not-for-profit client or a lobbyist entity which registers to exclusively represent not-for-profit clients.

35. What are the fines for an agent’s failure to file?

Under 2.100.170 (D) The city clerk shall assess a penalty for any statement which is filed by a municipal agent later than the prescribed date; or, if such statement has been filed by mailing, where the postmark on such mailing is later than the prescribed date. Said penalty shall be in the amount of one hundred dollars (\$100.00) when such statement has been filed ten days late or less, and in the amount of two hundred dollars (\$200.00) when such statement is more than ten (10) days late.

Appendix A

The Springfield Ethics Ordinance

AMENDING TITLE 2, OF THE REVISED ORDINANCES OF THE CITY OF SPRINGFIELD, 1986, AS AMENDED HEREBY FURTHER AMENDED BY ADDING A NEW CHAPTER 2.100 THERETO: CODE OF CONDUCT AND ETHICS; LOBBYING, FINANCIAL DISCLOSURE

Title 2, of the Revised Ordinances of the City of Springfield, 1986, as amended, hereby further amended by adding the following new Chapter 2.100 thereto:

Chapter 2.100

CODE OF CONDUCT AND ETHICS; LOBBYING, FINANCIAL DISCLOSURE

Sections:

- 2.100.010 Purpose.
- 2.100.020 Definitions.
- 2.100.030 Conflict of Interest - Statement of Policy.
- 2.100.040 Conflict of Interest - Improper Influence.
- 2.100.050 Conflict of Interest - Illegal Gifts. Surrendered to City Treasurer-Collector.
- 2.100.060 Conflict of Interest - City-Owned Property.
- 2.100.070 Conflict of Interest - Use or Disclosure of Confidential information.
- 2.100.080 Conflict of Interest - Interest in City Business.
- 2.100.090 Conflict of Interest - Conferring Benefits to Others: Employment of Immediate Family.
- 2.100.100 Conflict of Interest - Prohibited Acts by Members of the Mayor and City Council.
- 2.100.110 Conflict of Interest - Prohibited Acts by School Committee Members.
- 2.100.120 Conflict of Interest - Gifts Among City Employees.
- 2.100.130 Conflict of Interest - Income of City Councilors, School Committee Member and Commission Members Derived from Individuals and Entities which Appear Before Them - Duty to Disclose and Duty to Recuse.
- 2.100.140 Advocacy Restrictions (Lobbying) - Statement of Policy.

CITY OF SPRINGFIELD
Ethics Commission Regulations and Forms

- 2.100.150 Advocacy Restrictions (Lobbying) - Public Disclosure, City Clerk Docket.
- 2.100.160 Advocacy Restrictions (Lobbying) - Agreements to Influence Decisions Prohibited.
- 2.100.170 Advocacy Restrictions (Lobbying) - Municipal Agent Standards.
- 2.100.180 Advocacy Restrictions (Lobbying) - Gifts from Municipal Agents.
- 2.100.190 Advocacy Restrictions (Lobbying) - Enforcement.
- 2.100.200 Advocacy Restrictions (Lobbying) - Exemptions.
- 2.100.210 Statements of Financial Interest - Statement of Policy.
- 2.100.220 Statements of Financial Interest - Financial Statements.
- 2.100.230 Advisory Opinions.
- 2.100.240 Establishment of Springfield Ethics Commission.
- 2.100.250 Duties and Powers -- Enforcement Persons.
- 2.100.260 Penalties.
- 2.100.270 Recovery of Damages and Other Remedies.
- 2.100.280 Conflict with Other Laws.
- 2.100.290 Distribution of Chapter; Training Provisions; City Web Site Links.
- 2.100.300 Retaliatory Action.
- 2.100.310 Effective Date.

2.100.010 Purpose. This chapter establishes a standard of conduct for city employees and their immediate families and a standard of conduct for municipal agents and lobbyists. It also establishes a requirement for the filing of a statement of financial interests by candidates for elected office and city officials.

2.100.020 Definitions. Whenever used in this chapter, the following terms shall have the following meanings unless the context requires otherwise:

A. "'Act' to communicate directly with a covered city official to influence a decision concerning policy, permitting or procurement", means any direct communication by a person to such official by telephone, mail, commercial messenger, facsimile transmission, electronic mail, other direct means or in person, but shall not be deemed to include the following activities:

CITY OF SPRINGFIELD
Ethics Commission Regulations and Forms

(1) A request for a meeting, a request for the status of an action or any similar administrative request, if the request does not include an attempt to influence a covered city official

(2) An act made in the course of participation in an advisory committee or task force;

(3) Providing information in writing in response to a written request for specific information by an officer or employee of the city;

(4) An act required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation or other action of the city;

(5) a communication made to an city official or employee with regard to a: a) judicial proceeding or a criminal or civil law enforcement inquiry, investigation or proceeding; or b) filing or proceeding that the city, is specifically required by statute or regulation to maintain or conduct on a confidential basis; if the city is charged with responsibility for such proceeding, inquiry, investigation or filing;

(6) A petition or application for action by the city made in writing and required to be a matter of public record;

(7) An act made on behalf of an individual with regard to that individual's benefits, employment or other personal matters;

(8) A response to a request for proposals or similar invitation by an officer or employee of the city for information relevant to a contract;

(9) Participation in a bid conference;

(10) An appeal or request for review of a procurement decision.

B. "Affinity" means related by marriage.

C. "Appointed official" means a city official who is not an elected official.

D. "Business" means any corporation, partnership, sole proprietorship, firm, franchise, association, organization, holding company, joint stock company, receivership, business or real estate trust, or any other legal entity organized for profit or charitable purposes;

E. "Business with which he/she is associated" means any business in which a covered city official or a member of his or her immediate family is a general partner, proprietor, officer or other employee, including one who is self-employed, or serves as a director, trustee or in any similar managerial capacity; and any business more than one percent of any class of the outstanding equity of which is

CITY OF SPRINGFIELD
Ethics Commission Regulations and Forms

beneficially owned in the aggregate by the covered city official and members of his or her immediate family.

F. "Candidate for public office" means any individual who seeks nomination or election to local public office, as defined by this article. For the purposes of this chapter, an individual shall be deemed to be seeking nomination or election to public office if he/she has (1) received a political contribution or made an expenditure, or has given his/her consent for any other person or committee to receive a political contribution or make an expenditure, for the purpose of influencing his/her nomination or election to such office, whether or not the specific public office for which he/she will seek nomination or election is known at the time the political contribution is received or the expenditure is made, or (2) taken the action necessary under the laws of the commonwealth to qualify himself/herself for nomination or election to such office;

G. "City" means the city of Springfield.

H. "City agency" means any multiple member body, any department, division, or office of the city of Springfield.

I. "City contractor" means any person (including agents or employees acting within the scope of their employment) who is paid from the city treasury or under city auspices, for goods or services, regardless of the nature of the relationship of such person to the city for purposes other than this chapter.

J. "City employee" and "City official" means any person who holds any elected or paid position in the city. "City employee" and "City official" shall expressly include all members of the following city boards and commissions, whether paid or unpaid:

- Appeals (zoning), Board of
- Board of Assessors
- Conservation Commission,
- Cultural Council, Springfield
- Election Commission, Springfield
- Historical Commission, Springfield
- Library Commission, Springfield
- License Commissioners, Board of
- Park Commission
- Personnel Board
- Planning Board
- Public Health Council
- Public Works, Board of

- Retirement Board
- Riverfront Development Commission
- School Building Commission
- School Committee
- Taxi and Livery Commission
- Traffic Commission
- Any other city board or commission that has authority to expend public funds (other than to approve reimbursements for expenses) or any city board or commission which has authority to grant or recommend any license, permit, certificate, variance, site plan approval, or any other permission or approval.

For purposes of this chapter all officers and directors of the Springfield Library Foundation, Inc. and members of the Barney Trust Fund shall be considered a "city official."

Note persons who are not considered city employees under this chapter may still be considered a "municipal employee" under the State Ethics Law *M.G.L. c. 268A*.

K. "Client" means an individual or business entity that contracts with another individual or business entity to receive lobbyist services.

L. "Commission" means the state ethics commission.

M. "Consanguinity" means related by blood. The degree of relationship by consanguinity between an individual and a relative is determined by the number of generations that separate them. A parent and child are related in the first degree; a grandparent and grandchild, in the second degree; a great-grandparent and great-grandchild, in the third degree; and so on.)

N. "Contract management authority" means personal involvement in or direct supervisory responsibility for the formulation or execution of a city contract, including without limitation, the preparation of specifications, evaluation of bids or proposals, negotiation of contract terms or supervision of performance.

O. "Covered city official" means all officials elected by popular vote or the head, deputy or assistant head of any department, board, commission or division of the city government, and the Springfield public schools'

CITY OF SPRINGFIELD
Ethics Commission Regulations and Forms

superintendent, assistant or deputy superintendents, business manager, personnel director, and principals.

P. "Economic interest" means a financial interest, whether vested or contingent, legal or beneficial, with a present fair market value of greater than two hundred fifty dollars (\$250.00), which is distinguishable from that of the public generally.

Q. "Elected office" means any position for which one is nominated at a local preliminary election or elected at a local final election.

R. "Elected official" means a city official who holds an elected office.

S. "Equity" means any stock or similar ownership interest in a business;

T. "Gift" means

1. A delivery of goods, payment, entertainment, subscription, advance services or anything of value, unless consideration of equal or greater value is received; or

2. The difference in an amount paid for goods or services less their fair market value; but

3. It shall not mean 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 good or services received from a relative within the third degree of consanguinity of the recipient, the recipient's spouse or the spouse of any such relative.

U. "Governmental decision" means a decision that requires a city employee to use his or her judgment or discretion.

V. "Immediate family" means, as it does in Chapter 268A of the General Laws, the city employee or official and his/her spouse, and their parents, children, brothers and sisters;

W. "Income" means income from whatever source derived, whether in the form of a fee, salary, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of recompense or any combination thereof; provided, however, that interest from savings accounts or from government obligations other than those of the commonwealth or any political subdivision thereof or any public agency or authority created by the general court, alimony and support payments, proceeds from a life insurance policy, retirement or disability benefits, and social security payments shall not be considered income for the purposes of this chapter;

CITY OF SPRINGFIELD
Ethics Commission Regulations and Forms

X. "Legislation" means ordinances, resolutions and proposals of every kind, character or description considered by the city council any committee thereof.

Y. "Lobbyist entity" means an entity providing lobbyist services, consisting of at least one municipal agent, including foreign or domestic corporation, association, sole proprietor, partnership, limited liability partnership or company, joint stock company, joint venture or any other similar business formation.

Z. "Local public office" means any position for which one is nominated at a local preliminary election or elected at a local final election.

AA. "Municipal agent" means a firm, company, partnership or person who for monetary compensation or its equivalent does any act to influence the decision of any covered city official where such decision concerns permitting, or the amendment, adoption, defeat, postponement or enforcement related thereto, legislation or the adoption, defeat or postponement of a standard, rate, rule, enforcement or regulation pursuant thereto, or any act to communicate directly with a covered city official to influence a decision concerning policy or procurement, or a firm, company or partnership which employs individuals for such purposes. The term "municipal agent" shall include a person who, as part of his/her regular and usual business or professional activities and not simply incidental thereto, attempts to influence any such decision, whether or not any compensation in addition to the salary for such activities is received for such services; provided, however, that for the purposes of this definition a person shall be presumed to engage in activity covered by this definition in a manner that is simply incidental to his/her regular and usual business or professional activities if he/she engages in any activity or activities covered by this definition for not more than fifty hours during any reporting period or receives less than five thousand dollars during any reporting period for any activity or activities covered by this definition, or firm, company or partnership who employs individuals for such purposes. For purposes of this section reporting period shall mean six (6) month periods from January first through June thirtieth and July first through December thirty-first.

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

CC. "Policy" means a plan or course of action which is applicable to a class of persons, proceedings or other

matters and which is designed to influence or determine the subsequent decisions and actions of any covered city employee, including, but not limited to, a plan or course of action which would constitute a "regulation". The term shall not include the adjudication or determination of any rights, duties, or obligations of a person made on a case by case basis, including but not limited to the issuance or denial of a license, permit, or certification or a disciplinary action or investigation involving a person.

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

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, or 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, or person acting on behalf of an individual, candidate or political committee, whether through the device of tickets, advertisements, or otherwise, for fundraising activities, including testimonials, held on behalf of said 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 to the general public; and

6. 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;

EE. "Procurement" means the buying, purchasing, renting, leasing or otherwise acquiring or disposing, by contract or otherwise, of supplies, services or construction or the acquisition or disposition of real property or any interest therein, including, but not limited to, the purchase, lease or rental of any such real property or the granting of easements or rights of way therein; but not including any item of expenditure the value of which is twenty-five thousand dollars or less

FF. "Relative" means person who is related to an official or employee as spouse, as a descendent of any grandparent of such official or employee, whether by the whole-or half-blood or by adoption, or as spouse of any of the foregoing and any person who resides with an employee or an official

GG. "Reporting person" means anyone who is required to file a statement of financial interest pursuant to Article IV.

HH. "State Ethics Law" means chapter 268A of the General Laws

2.100.030 Conflict of Interest - Statement of Policy.
The provisions of this article supplement the conflict of interest provisions of the State Ethics Law. All city employees shall comply with the requirements of the State Ethics Law, including, but not limited to, Sections 2, 3, 17-20, and 23 of the State Ethics Law, in addition to the provisions of this Article. Note persons who are not considered city employees under this chapter may still be considered a "municipal employee" under the State Ethics Law M.G.L. c. 268A.

2.100.040 Conflict of Interest - Improper Influence.
No city official or city employee shall make or participate in making any decision on any issue in which he or she has an economic interest. No city official or city employee shall in any way attempt to use his or her position to influence any city governmental decision or action in which he or she has an economic interest distinguishable from its effect on the public generally or, with respect to the city council, any economic interest distinguishable from its effect on all councilors generally. This provision shall not prohibit the mayor and city council from considering, voting on and authorizing their own compensation.

2.100.050 Conflict of Interest - Illegal Gifts Surrendered to City Treasurer-Collector. Any gift given in violation of the provisions of chapter 268A of the General Laws shall be surrendered to the treasurer-collector, who shall add the gift to the inventory of city property. Surrender shall occur after such gift is no longer considered to be evidence in any administrative, civil, or criminal proceeding.

2.100.060 Conflict of Interest - City-Owned Property. No city official, city employee or city contractor shall engage in or permit the unauthorized use of city-owned property or any other property being held by the city for public purposes.

2.100.070 Conflict of Interest - Use or Disclosure of Confidential Information. A. No current or former city employee shall knowingly, or with reason to know, engage in any business or professional activity which will require him/her to disclose confidential information which he/she has gained by reason of his/her official position or authority;

B. No current or former city official or city employee shall use or disclose, other than in the performance of his or her official duties and responsibilities, or as may be required by law, confidential information gained in the course of, or by reason of, his or her position or employment.

C. For purposes of this section, confidential information means any information that is not made available to the general public on request or could not be obtained pursuant to the Massachusetts Public Records Act, chapter 66 of the General Laws, as amended.

2.100.080 Conflict of Interest - Interest in City Business. A. No city official or city employee or member of his or her immediate family shall have an economic interest, directly or indirectly, in work or business of the city, or in the sale to the city of any property or service when consideration for the contract, work, business or sale is paid with funds belonging to or administered by the city. Compensation for property taken pursuant to the city's eminent domain power shall not constitute a financial interest within the meaning of this section. Unless sold pursuant to a process of competitive bidding following public notice, no city official or city employee shall have a financial interest in the purchase of any

property that (i) belongs to the city or a city agency, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the city. No city official or city employee nor their spouse shall engage in a transaction described in this section, unless the matter is wholly unrelated to the employee or officials city duties and responsibilities.

B. To the degree allowed under the State Ethics Law (*M.G.L. c. 268A*) it shall not be a violation of this section if:

1. The work, business or sale of a property or services is wholly unrelated to the duties and responsibilities of the city employee and the city employee discloses such interest to the individual responsible for his/her appointment or contract of hire; or in the case of an elected official, files a disclosure with the city clerk;

2. A city employee acting in good faith discovers an actual or prospective violation of this section and, within 30 days, files a disclosure of such economic interest with the city clerk and terminates or disposes of the interest; or

3. The economic interest constitutes compensation for property taken pursuant to the city's eminent domain power.

2.100.090 Conflict of Interest - Conferring Benefits to Others: Employment of Immediate Family. A. No city official or city employee may appoint or advocate for employment, in any city agency in which said official or employee serves, or over which he/she exercises authority, supervision, or control, any person (i) who is a relative of said official or employee, or (ii) in exchange for or in consideration of the employment of any of said city officials or city employees relatives by any other city official or city employee.

B. No city official or city employee shall exercise contract management authority over a contract involving any relative of the city official or city employee.

C. No city official or city employee shall use or permit the use of his/her position to assist any relative in securing employment or contracts with persons over whom the city official or city employee exercises contract management authority. The employment of or contracting with a relative of such a city official or city employee by such a person within six months prior to, during the term of, or six months subsequent to the period of a city contract

shall be evidence that said employment or contract was obtained in violation of this article.

2.100.100 Conflict of Interest - Prohibited Acts by Members of the Mayor and City Council. Neither the mayor nor members of the city council shall make loans, gifts of value equal to or exceeding fifty dollars, offers of employment or future employment, except within the discharge of their official capacities, or of business or investment opportunities to heads of city agencies, to the city solicitor and assistant city solicitors or to members of boards or commissions involved in the granting of variances, permits, licenses or other such discretionary, or adjudicatory functions.

2.100.110 Conflict of Interest - Prohibited Acts by School Committee Members. School committee members shall not make loans, gifts of value equal to or exceeding fifty dollars, offers of employment or future employment, except within the discharge of their official capacities, or of business or investment opportunities to the superintendent, assistant or deputy superintendents, the business manager, the personnel director, the principals of the Springfield public schools, or consultants or legal advisers contracted to the school department.

2.100.120 Conflict of Interest - Gifts Among City Employees. A. No city employee shall knowingly and willfully offer or give to another city employee or member of such employee's immediate family, and no city employee or member of such employee's immediate family shall knowingly and willfully solicit or accept from another city employee, gifts with an aggregate value of fifty dollars (\$50.00) or more in a calendar year.

B. This section shall not apply to gifts given for a wholly social purpose.

2.100.130 Conflict of Interest - Income of City Councilors, School Committee Members and Commission Members Derived From Individuals and Entities Which Appear Before Them - Duty to Disclose. When any individual or entity appears before the city council, the city school committee, and/or any city board or commission which has the authority to grant or recommend any license, permit, certificate, variance, site plan approval, or any other permission or approvals and such individual or entity has, within the

preceding five (5) years paid compensation to a city councilor, city school committee member or board or commission member, or to any entity or person from which such city councilor, city school committee member or board or commission member has derived income, the city councilor, school committee member or board or commission member who has received such compensation, directly or indirectly, shall, prior to each appearance of such individual or entity before the city council, school committee or city board or commission, publicly disclose orally and in writing that he/she has received such compensation, directly or indirectly. Such written disclosure shall be filed with the city clerk, and in a form prescribed and provided by the city clerk, which shall be the same as - or similar to - the State Ethics Law disclosures pursuant to MGL c. 268A sec 23(b)(3). No city councilor, school committee member or board or commission member may take any official action on matters which would foreseeably affect his/her own financial interests, or the financial interests of his/her immediate family members, partners, employers (other than the municipality), those with whom he/she is negotiating or has an arrangement concerning prospective employment, or organizations for which he serves as an officer, director, partner or trustee. When such matters come before city councilors or school committee members or board or commission members, they shall recuse themselves by departing the room wherein any discussion relating to such matters is to take place. The recused city councilor, city school committee member and/or city commission member shall not return until all such discussion relating in any way to such matters have been completed.

2.100.140 Advocacy Restrictions(Lobbying) - Statement of Policy. This article establishes a standard of conduct for officials and employees of the city of Springfield, consistent with chapter 268A, section 23 of the Massachusetts General Laws.

2.100.150 Advocacy Restrictions(Lobbying) - Public Disclosure, City Clerk Docket. A. The city clerk shall keep a docket which may be in the form of an electronic database. All information required to be filed under this article shall be organized into the docket and shall be posted on the city website and otherwise and be made available for public inspection during normal business hours.

B. Each municipal agent and lobbyist entity shall file an annual disclosure statement with the city clerk on forms prescribed and provided by the city clerk. The annual disclosure shall be completed not later than December 15 of the year proceeding the disclosure year.

C. A client retaining the services of a municipal agent, or lobbyist entity shall also file an annual disclosure statement with the city clerk on forms prescribed and provided by the city clerk. The annual registration shall be completed not later than December 15 of the year proceeding the registration year.

D. A client or lobbyist entity hiring, employing or agreeing to employ a lobbyist entity or municipal agent after January 1 of the registration year shall, within ten (10) days after such employment or agreement, cause the name of the lobbyist entity or municipal agent to be registered with the city clerk as provided in this section. Notice of termination of such employment shall also be filed promptly with the City Clerk by the client, municipal agent, or lobbyist entity.

E. The city clerk shall assess each lobbyist entity an annual filing fee of \$500.00 to register the entity on the docket. The city clerk shall assess each municipal agent an annual filing fee of \$100 upon entering the agent's name on the docket. The city clerk may, in his/her discretion and upon written request, waive the filing fees not a not-for-profit client or a lobbyist entity which registers to exclusively represent not-for-profit clients.

F. Upon registration, the city clerk shall issue to each municipal agent, a nontransferable identification card that shall include the person's name and photograph. All municipal agents shall submit three (3) passport-sized photographs to the city clerk upon registration.

2.100.160 Advocacy Restrictions(Lobbying) - Agreements to Influence Decisions Prohibited. A. No person shall make any agreement whereby any compensation or thing of value is to be paid to any person contingent upon a decision as described in the definition of "municipal agent", or the passage or defeat of any permit, legislation or the approval or veto of any legislation or permit. No person shall agree to undertake to influence such a decision, or to communicate to influence such a decision or to promote, oppose or influence legislation or to communicate with members of the city council, or to advocate approval or veto by the mayor for consideration to be paid upon the contingency of the outcome of such a decision or that any

legislation is passed or defeated. Determination of such shall render the legislation or permit, null and void.

B. Nothing in this section shall be construed to prohibit any salesperson engaging in legitimate city business on behalf of a company from receiving compensation or a commission as part of a bona fide contractual arrangement with that company.

2.100.170 Advocacy Restrictions(Lobbying) - Municipal Agent Standards. A. On or before the fifteenth day of July, complete from January first through June thirtieth; and the fifteenth day of January, complete from July first to December thirty-first of the preceding year, every municipal agent appearing on the docket shall render to the city clerk an itemized statement, under oath, listing all campaign contributions as defined in section one of chapter fifty-five of the General Laws; all expenditures, and the total amount thereof, incurred, contributed or paid during the reporting period in the course of his/her employment as an municipal agent and all expenditures made for or on behalf of city officials and city employees incurred or paid during the reporting period, except that the municipal agent shall not be required to report such expenditures not in the course of his/her employment made for or on behalf of the immediate family of such municipal agent or a relative within the third degree of consanguinity of the municipal agent or city employee or of his/her spouse or the spouse of any such relative; and except that in the case of all expenditures the municipal agent shall not be required to itemize the expenditures of any one day in which the amount incurred or paid did not total thirty-five dollars (\$35.00) or more. Such itemized accounting shall include, but not be limited to, specific expenditures for meals, gifts, transportation, entertainment, advertising, public relations, printing, mailing and telephone; and shall also include the names of the payees and the amount paid to each payee and shall further include the names of the candidate or political committee to whom or to which the contribution was made, the amount and date of each contribution, and the names of city employees and officials for whom payments have been made.

B. When such expenditure is for meals, entertainment or transportation, said expenditure shall be identified by date, place, amount, and the names of all persons in the group partaking in or of such meal, entertainment or transportation. No expenditure shall be split or divided for the purpose of evading any provision of this section.

CITY OF SPRINGFIELD
Ethics Commission Regulations and Forms

The city clerk shall, within thirty days of receipt of such accounting, notify persons whose names appear therein as having received campaign contributions, meals, transportation or, entertainment, as to the nature of the contribution or expenditure claimed, the date and amount of the contribution or expenditure, and the person or persons who reported the contribution or expenditure.

C. Every municipal agent shall include in the statement required by this section a list of all matters the municipal agent acted to promote, oppose or influence during the reporting period in the course of his/her employment.

D. The city clerk shall assess a penalty for any statement which is filed by a municipal agent later than the prescribed date; or, if such statement has been filed by mailing, where the postmark on such mailing is later than the prescribed date. Said penalty shall be in the amount of one hundred dollars (\$100) when such statement has been filed ten days late or less, and in the amount of two hundred dollars (\$200) when such statement is more than ten (10) days late.

E. The city clerk shall prescribe and make available the appropriate statement forms which shall be open and accessible for public inspection during normal working hours.

F. No municipal agent shall knowingly offer or knowingly give to any city official or city employee or to a member of such person's immediate family any gift of any kind or nature, nor knowingly pay for any meal, beverage, or other item to be consumed by such city official or city employee, whether or not such gift or meal, beverage or other item to be consumed is offered, given or paid for in the course of such agent's business or in connection with a personal or social event; provided, however, that a municipal agent shall not be prohibited from offering or giving to a city official or city employee who is a member of his/her immediate family or a relative within the third degree of consanguinity or of such agent's spouse or the spouse of any such relative any such, gift or meal, beverage or other item to be consumed.

2.100.180 Advocacy Restrictions(Lobbying) - Gifts from Municipal Agents. No municipal agent shall knowingly or willfully offer or give to a city employee or city official or member of such city employee or city official's immediate family and no city official or city employee or member of such city official or city employee's immediate

family shall knowingly and/or willfully solicit or accept from any municipal agent gifts.

2.100.190 Advocacy Restrictions(Lobbying) - Enforcement. A. Violation of any provision of this Article shall be punished by a fine of three hundred dollars (\$300.00). In addition, the city clerk shall report all violations of this Article immediately to the city solicitor. Any person acting as a municipal agent who, after being afforded a hearing and due process, is found to have violated any provision of this Article shall, in addition to such fine, be disqualified from acting a municipal agent for a period of five (5) years after such finding.

B. The city clerk shall inspect all statements required by this article filed with him if it appears that any person has failed to file such statement as required by said sections, or if it appears to the city clerk that any such statement filed with him does not conform to law, the city clerk shall within a reasonable time notify the delinquent person, group or organization in writing.

C. Upon failure to file a statement within fourteen (14) days after receiving notice under this section, or if any statement filed after receiving notice indicates any violation of this article the city clerk shall within a reasonable time notify the district attorney thereof and shall furnish him with copies of all papers relating thereto.

2.100.200 Advocacy Restrictions(Lobbying) - Exemptions. The above sections, 2.100.140 - 2.100.190, inclusive, shall not apply to employees or agents of the commonwealth or of the city, or of the city's redevelopment authority, housing authority or water and sewer commission who are acting in their capacity as such employees or agents or to any person requested to appear before any committee or official of the city. See also exemptions to "Act" to communicate directly with a covered city official to influence a decision concerning policy, permitting or procurement" contained in 2.100.020 par A.

2.100.210 Statements of Financial Interest - Statement of Policy. The provisions of this Article are intended to ensure the public's trust and confidence that decisions of city officials and city employees are not contaminated by such city official and city employee's personal financial interests. This Article requires covered city officials

and candidates for local public office to make certain financial disclosures.

2.100.220 Statements of Financial Interest - Financial Statements. A. Every candidate for local public office shall file a statement of financial interest for the preceding calendar year with the city clerk on or before the date on which a certificate of nomination or nomination papers for such candidate are submitted to the city clerk. Every candidate for local public office who has not filed nomination papers with the city clerk, but on whose behalf a statement of organization of a political committee has been filed with the director of campaign and political finance under section five of chapter fifty-five of the General Laws, and who is seeking public office by the so-called "write in" or "sticker" method, shall within three days after such filing file a statement of financial interests with the city clerk.

B. Every covered city official shall file a statement of financial interest for the preceding calendar year with the city clerk on or before the last Tuesday in May of the year in which such covered city official first enters such public office and of each year that such covered city official holds such office, and on or before May first of the year after such covered city official leaves such office; provided, however, that no covered city official shall be required to file a statement of financial interests for the year in which he/she ceased to be a city official or city employee if he/she served for less than thirty days in such year.

C. The city clerk shall, upon receipt of a statement of financial interests pursuant to the provisions of this article, issue to the person filing such statement a receipt verifying the fact that a statement of financial interests has been filed and a receipted copy of such statement.

D. No covered city official shall be allowed to continue in his/her duties or to receive compensation from public funds unless he/she has filed a statement of financial interests with the city clerk as required by this article.

E. The statement of financial interests filed pursuant to the provisions of this article shall be on a form prescribed by the city clerk and shall be signed under penalty of perjury by the reporting person.

F. Reporting persons shall disclose the following information for the preceding calendar year. Information

CITY OF SPRINGFIELD
Ethics Commission Regulations and Forms

required pursuant to clauses (2), (3) and (6) below should be for the last day of the preceding calendar year.

1. The name and address of, the nature of association with, the share of equity in, if applicable, and the amount of income if greater than one thousand dollars (\$1,000) derived from each business with which he/she is associated;

2. The identity of all securities and other investments with a fair market value of greater than one thousand dollars which were beneficially owned; and the amount of income if over one thousand dollars (\$1,000) from any such security which is issued by the commonwealth or any political subdivision thereof or any public agency or authority created by the general court;

3. The name and address of each creditor to whom more than one thousand dollars (\$1,000) was owed and the original amount, the amount outstanding, the terms of repayment, and the general nature of the security pledged for each such obligation except that the original amount and the amount outstanding need not be reported for a mortgage on the reporting person's primary residence. In addition, obligations arising out of retail installment transactions, educational loans, medical and dental expenses, debts incurred in the ordinary course of business, and any obligation to make alimony or support payments, need not be reported

4. The name and address of the source, and the cash value of any reimbursement for expenses aggregating more than one hundred dollars (\$100) in the calendar year if the source of such reimbursement is a municipal agent; or if the recipient is an elected city official and the source of such reimbursement is a person having a direct interest in legislation, legislative action, or a matter before a city agency; or if the recipient is an appointed city official and the source of such reimbursement is a person having a direct interest in a matter before the city agency by which the recipient is employed;

5. The name and address of the donor, and the fair market value, if determinable, of any gifts aggregating more than one hundred dollars (\$100) in the calendar year, if the recipient is an elected city official and the source of such gift(s) is a person having a direct interest in legislation, legislative action, or a matter before a city agency; or if the recipient is an appointed city official and the source of such gift(s) is a person having a direct interest in a matter before the city agency by which the recipient is employed;

6. The description, as appearing on the most recent tax bill, and the amount of assessed value of all real property located within the commonwealth, in which a direct or indirect financial interest was held, which has an assessed value greater than one thousand dollars (\$1,000); and, if the property was transferred during the year, the name and address of the person furnishing consideration to the reporting person or receiving it from him in respect to such transfer;

7. The name and address of the source, and the fair market value, of any honoraria aggregating more than one hundred dollars (\$100) if the source of such honoraria is a municipal agent; or if the recipient is an elected city official and the source of such honoraria is a person having a direct interest in legislation, legislative action, or a matter before a city agency; or if the recipient is an appointed city official and the source of such honoraria is a person having a direct interest in a matter before the city agency by which the recipient is employed;

8. The name and address of any creditor who has forgiven an indebtedness of over one thousand dollars (\$1,000), and the amount forgiven;

9. The name and address of any business from which the reporting person is taking a leave of absence;

10. The identity of any equity in a business with which the reporting person is associated which has been transferred to a member of the reporting person's immediate family; provided, however, that a member of the reporting person's immediate family need not report any such transfer to the reporting person.

11. Nothing in this section shall be construed to require the disclosure of information which is privileged by law.

12. Failure of a reporting person to file a statement of financial interests within ten days after receiving notice as provided in this article, or the filing of an incomplete statement of financial interests after receipt of such a notice, is a violation of this article.

2.100.230 Advisory Opinions. A. Any city official or city employee or candidate for elected office 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 official or employee shall be made in confidence directly to the city solicitor.

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 pertain 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 in this chapter if that person has made a good faith disclosure of all material facts related to the opinion.

2.100.240 Establishment of Springfield Ethics Commission. A. There is established a Springfield Ethics Commission composed of three members.

B. One (1) member of the commission shall be appointed by the mayor; one (1) member shall be appointed by the city council; and one (1) member shall be appointed by the school committee. The initial appointee of the commission appointed by the mayor shall serve for a three(3) year term. The initial appointee of the city council shall serve for a two (2) year term and the initial appointee of the school committee shall serve for one (1) year, and annually thereafter there shall be appointed one member to serve for a three (3) year term.

C. Members of the commission shall serve for terms of three (3) years.

D. Not less than thirty (30) days prior to making any appointment to the commission, the appointing official shall give public notice that a vacancy on the commission exists.

F. No member or employee of the commission shall:

1. Hold or be a candidate for any other public office while a member or employee, or for one (1) year thereafter;

2. Hold office in any political party or political committee; or

3. Participate in or contribute to the political campaign of any candidate for public office.

G. A member may be removed by the mayor for cause, after charges preferred, reasonable notice of the charges and a hearing.

H. Any vacancy occurring on the commission shall be filled within ninety (90) days by the original appointing authority. A person appointed to fill a vacancy occurring other than by expiration of a term of office shall be appointed for the unexpired term of the member he succeeds.

I. The commission shall elect a chairperson and vice chair. The vice chair shall act as chairperson in the absence of the chairperson or in the event of a vacancy in that position.

J. Two (2) members of the commission shall constitute a quorum and two (2) affirmative votes shall be required for any action or recommendation of the commission; the chairman or any two (2) members of the commission may call a meeting; advance notice of all meetings shall be given to each member of the commission and to any other person who requests such notice.

K. The commission shall annually report to the mayor and the city council concerning the action it has taken; the names and salaries and duties of all individuals in its employ and the money it has disbursed; and shall make such further reports on matters within its jurisdiction as may appear necessary.

L. The commission shall utilize staff of the city clerk's office and law department, subject to appropriation, and such other staff, including but not limited to clerks, accountants, and investigators, as are necessary to carry out its duties pursuant to this ordinance. The city clerk shall be responsible for the administrative operation of the commission and shall perform such other tasks as the commission shall determine. The city solicitor shall be the chief legal officer of the commission. The clerk and city solicitor may employ, subject to appropriation, the services of experts and consultants necessary to carry out their duties. The police commissioner may make available to the commission personnel and other assistance as the commission may request.

2.100.250 Duties and Powers of the Commission. A. The Commission shall:

1. Prescribe and publish, rules and regulations: to carry out this ordinance, including rules governing the conduct of proceedings hereunder;
2. Prepare and publish, after giving the public an opportunity to comment, forms for the statements and reports required to be filed by this chapter and make such forms available to any and all persons required to file statements and reports pursuant to the provisions of this chapter;
3. Prepare and publish, methods of accounting and reporting to be used by persons required to file statements and reports by this chapter;

4. Make statements and reports filed with the commission available for public inspection and copying during regular office hours upon the written request of any individual who provides identification acceptable to the commission, including his affiliation, if any, at a charge not to exceed the actual administrative and material costs required in reproducing said statements and reports; provided, however, that the commission shall be authorized, in its discretion, to exempt from public disclosure those portions of a statement of financial interest filed pursuant to section 2.100.220 which contain the home address of the filer; and provided, further, that the commission shall forward a copy of said request to the person whose statement has been examined;

5. Compile and maintain an index of all reports and statements filed with the commission to facilitate public access to such reports and statements;

6. Inspect all statements of financial interests filed with the commission in order to ascertain whether any reporting person has failed to file such a statement or has filed a deficient statement. If, upon inspection, it is ascertained that a reporting person has failed to file a statement of financial interests, or if it is ascertained that any such statement filed with the commission fails to conform with the requirements of this ordinance, then the commission shall, in writing, notify the delinquent; such notice shall state in detail the deficiency and the penalties for failure to file a statement of financial interests;

7. Upon written request from a person who is or may be subject to the provisions of this ordinance, request the city solicitor to render advisory opinions on the requirements of said ordinance. An opinion rendered by the city solicitor, until and unless amended or revoked, shall be a defense in an action brought under ordinance and shall be binding on the commission in any subsequent proceedings concerning the person who requested the opinion and who acted in good faith, unless material facts were omitted or misstated by the person in the request for an opinion. Such requests, in so far as they relate to this ordinance, but not in so far as they relate to the State Ethics Law, shall be confidential; provided, however, that the commission may publish such opinions, but the name of the requesting person and any other identifying information shall not be included in such publication unless the requesting person consents to such inclusion;

8. Preserve all statements and reports filed with the commission for a period of six (6) years from the date of receipt;

9. Act as a civil enforcement agency for violations of all sections of this ordinance.

10. On or before February first of each year the chairman of the commission shall request a list of all major policymaking positions for the governmental bodies listed in section 2.100.020(J) of this ordinance. For each department or other governmental body covered by this ordinance, the executive or administrative head of such department or governmental body; and such persons shall furnish such lists within sixty (60) days. The chairman may add any position that he determines to be a major policymaking position in such governmental body to such list. Any person aggrieved by such action of the chairman may appeal such action to the commission.

2.100.260 Penalties. A. Any city official or city employee who violates this chapter shall be subject to appropriate discipline by the appointing authority 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. Alleged violations of the State Ethics Law, or this chapter by the mayor, city councilors, members of the school committee and the superintendent of schools shall be directly filed with the District Attorney, and the State Ethics Commission.

C. Any person who has been convicted of a knowing or willful violation of the State Ethics Law shall be deemed to have vacated his or her office from the date of conviction, and shall not be eligible to serve in any other elective or appointive office or position under the city.

D. Any person, not otherwise provided for by this chapter, shall immediately forfeit his or her office or position, upon conviction for a knowing or willful violation of this chapter.

E. All city contracts shall include therein a clause for termination in the event of a violation of this chapter in connection with the bidding, awarding, administration or performance of the contract.

F. Any permit, license, ruling, determination or other official action taken in violation of this chapter shall be void; provided however, that in the event that voiding would substantially damage the city or innocent

third parties, then the city entity responsible for such official action may, subject to the prior approval of the mayor, preserve, in whole or in part, the permit, license, ruling, determination or other action.

G. A knowing or willful violation of this chapter shall constitute a misdemeanor, and shall be punishable by a fine of not more than three hundred dollars (\$300.00) per offense.

2.100.270 Recovery of Damages and Other Remedies. A. The city may bring a civil action against any person who acted to his or her advantage in violation of this chapter, to recover damages in the amount of the economic advantage or five hundred dollars (\$500), which ever is greater.

B. Consistent with section 21 of the State Ethics Law, the city may recover the amount of any gift given in violation of sections 2 or 3 of the State Ethics Law.

C. The city or any city agency may maintain an action for an accounting for any economic benefit received by any person in violation of this chapter or other law.

2.100.280 Conflict with Other Laws. In the event of any conflict or inconsistency of this chapter with any state law, the provision of broadest or most strict coverage shall control. No provision of this chapter shall be construed so as to be inconsistent with state law.

2.100.290 Distribution of Chapter; Training Provisions; City Web Site Links. (a) The city clerk shall cause a copy of this chapter to be distributed to every elected and appointed city official or city employee within thirty (30) days of their entering upon the duties of their office or employment. The personnel director shall cause a copy of this chapter to be distributed to all other employees of the city within thirty (30) days of their entering upon the duties of their employment.

B. In order to assure that all city officials and city employees of the city are familiar with their responsibilities and obligations under this chapter and the State Ethics Laws, the mayor shall at regular intervals provide for training on the meaning and application of this chapter and the State Ethics Laws and every elected and appointed city official and city employee shall be required to attend at least one (1) such session after beginning the duties of his/her employment.

C. On its website the city shall provide a link to this chapter; the Massachusetts State Ethics Commission

CITY OF SPRINGFIELD
Ethics Commission Regulations and Forms

(<http://www.mass.gov/ethics/>); and the Massachusetts Office of Campaign and Political Finance, or OCPF (<http://www.mass.gov/ocpf/>)

2.100.300 Retaliatory Action. No city official or city employee shall intimidate, threaten, coerce, or otherwise take adverse action against any individual who in good faith makes a complaint to the mayor or the state ethics commission regarding any alleged violation of this chapter or the State Ethics Law by any city official or city employee of the city.

2.100.310 Effective Date. This chapter shall become effective on February 1, 2009.

Approved as to form

Michael E. Mulcahy, Asst City Solicitor

Appendix B

Statement of Financial Interest (“SFI”) with Instructions for filing

 [SFI_Statement_of_Financial_Interest_2008](#)

Appendix C

Lobbyist Registration and Reporting Forms

-  43E_Lobbyist_Entities_Reporting_Statement
-  43L_Individual_Lobbyist_Reporting_Statement
-  44_Stmt_of_Expenditures_for_Orgs_not_Employing_an_Agent
-  47_Lobbyist_Entities_and_Client_Reporting_Stmt
-  C1_Lobbyist_Client_Registration
-  C2_Lobbyist_Client_Notice_and_Authorization
-  E1_Lobbyist_Entity_Registration
-  E2_Lobbyist_Entity_Employment_Relationship_Registration
-  L1_Lobbyist_Registration
-  L2_Lobbyist_Employment_Relationship_Registration
-  SFI_Statement_of_Financial_Interest_2008
-  T1_Lobbyist_Termination_Notice
-  W1_Fee_Waiver_Request