

# CITY OF SOMERVILLE

ORDINANCE NO. 2014-\_\_\_\_\_

In Board of Aldermen \_\_\_\_\_

## **AN ORDINANCE REGULATING CAMPAIGN CONTRIBUTIONS FOR MUNICIPAL ELECTED OFFICE BY PERSONS SEEKING PUBLIC CONTRACTS, ZONING APPROVALS, REAL ESTATE TRANSACTIONS, AND FINANCIAL ASSISTANCE**

**WHEREAS**, it is in the interest of the City of Somerville to increase transparency concerning campaign contributions to incumbents for the office of Mayor, Alderman, and School Committee member, of the City of Somerville and the award of certain City contracts, and permits;

**WHEREAS**, the City of Somerville has a compelling governmental interest in maintaining public confidence in its elected officials and in avoiding even the appearance of impropriety, corruption, or improper influence by vendors, contractors, individuals, or corporations, who seek to apply for certain approvals or do business with the City;

**WHEREAS**, the City of Somerville seeks to establish a clear and comprehensive ordinance to provide for further disclosure and enact reasonable requirements for those who seek certain approvals or to do business with the City in certain capacities;

### **NOW THEREFORE BE IT ORDAINED AS FOLLOWS:**

#### I. Definitions.

a. **Applicant**. A person who has filed an application with the City of Somerville or any City-related agency in any of the following situations:

1. Seeking to enter into a contract, except where that contract is required by law to be awarded to the lowest qualified bidder,
2. Seeking approval for a special permit with site plan review or approval of a planned unit development with respect to new construction or renovation in excess of ten thousand (10,000) square feet,
3. Seeking to acquire real estate from, or dispose of real estate to, the City or any City-related agency, or

4. Seeking financial assistance from the City.
- b. **Candidate.** Any individual who seeks nomination or election, as further defined in MGL c. 55, s. 1, to the office of mayor, alderman, or school committee member, of the city of Somerville.
- c. **City-related agency.** All departments of the City, as well as any authorities and quasi-public corporations that receive appropriations from the City, such as the Somerville Redevelopment Authority.
- d. **Contract.** A signed, written agreement in excess of twenty-five thousand dollars (\$25,000) for goods or services to which the City or a City-related agency is a party, regardless of whether the agreement was required to be competitively procured under Massachusetts procurement law.
- e. **Contribution.** A donation of money or of in-kind goods and services as further defined in Massachusetts General Laws Chapter 55, Section 1.to an incumbent or candidate for the office of Mayor, Alderman or School Committee member, of the City of Somerville.
- f. **Contributor.** A person who donates money or in-kind goods or services to an incumbent or candidate for the office of Mayor, Alderman or School Committee member, of the City of Somerville.
- g. **Financial assistance.** Any grant, loan, tax incentive, bond financing proceeds used to purchase land or fund expenses for improvements made to land or real estate, or other forms of assistance that is realized by or provided to a person in the amount of fifty thousand dollars (\$50,000) or more through the authority or approval of the City or a City-related agency, including but not limited to Tax Increment Financing (TIF) aid,

District Improvement Financing (DIF), industrial development bonds, or Community Development Block Grant (CDBG) aid.

- h. **Immediate family.** A person's parent, sibling, spouse and any dependent children residing in the person's household, grandparent or grandchild.
- i. **Incumbent.** An individual currently holding the office of mayor, alderman, or school committee member, of the city of Somerville.
- j. **Person.** An individual, corporation, limited liability company, partnership, association, joint venture, or any other legal entity.
- k. **Senior/Executive Management.** For a person which is not an individual, the member of the entity's board of directors, its officers, chairperson, chief executive officer, chief financial officer, chief operating officer, members (if entity is LLC), and any person with an ownership interest of more than 10 percent in the entity.

## II. Eligibility.

- a. No applicant shall be entitled to obtain the award or approval of any of the items applied for as referenced in section I, if the applicant, including each individual who would be attributed to the applicant under section III, has made a total contribution of more than \$250.00 each to any incumbent as of the date of the application in either the calendar year of the application or the calendar year preceding the application. If an applicant is determined to be ineligible for any item listed in section I of this ordinance, a notice of ineligibility shall be provided to the applicant by the relevant city or city-related agency which received the application or the auditor.
- b. An applicant may cure a violation of this section, if within seven (7) days after the date of the City issuing notice of ineligibility under this ordinance, either: (1) the

applicant submits a sworn statement to the City that is has received a refund of a contribution from each incumbent for any amount in excess of \$250; or (2) the applicant submits to the City a copy of its written request to obtain a refund of the contribution and signs a sworn statement that no refund was received.

- c. Any incumbent who has received a request for a refund and copy of the notice of ineligibility of the applicant from an applicant pursuant to this ordinance, shall be required to issue a refund of each contribution in excess of \$250 to each applicant, or anyone attributed to the applicant under this ordinance, within thirty (30) days of receiving a written sworn request from an applicant.
- d. No contract may be renewed, extended, or materially amended, unless the resulting renewal, extension, or amendment, would be allowable under the provisions of this ordinance if it were an initial contract.
- e. No contributions made prior to the effective date of this ordinance shall be deemed to give rise to a violation or penalty under this ordinance, and applicants shall not have to disclose any contributions made prior to the effective date of this ordinance.

### III. Attribution.

- a. Where a person is an individual, the individual or their immediate family as defined in section I.
- b. Where a person is not an individual but a corporation, partnership, limited liability corporation, or other legal entity, its senior management or executive officers as defined in section I.

### IV. Applicant Responsibilities

- a. Applicants will be required to fill out a disclosure form along with any application for

an award or item as defined in section I. Such form shall be signed under the pains and penalties of perjury by the applicant and shall include the following information:

1. The name, address, and telephone number of the applicant and all of its senior or executive managers.
2. All contributions made by the applicant during the previous calendar year, as well as all contributions made year-to-date in the current calendar year by stating the name of the person who made the contribution, the candidate or incumbent who received the contribution, and the date and amount of each contribution.
3. A certification by the applicant that if awarded the item applied for that the applicant and each person attributed to the applicant shall not make any contribution in any calendar year in excess of \$250 to any individual incumbent for elective office of the City of Somerville for the next two years.

b. The applicant and each individual attributed to the applicant under section III shall not make any contribution to any incumbent for elective office of the City of Somerville in excess of \$250 per year for the next two calendar years following the award of the item.

## V. Independent Auditor Responsibilities

- a. The City shall contract with an independent auditor (“auditor”) who will be responsible for collecting and processing contribution disclosure forms from candidates, incumbents and applicants. The auditor shall maintain the records of all notices, disclosures, submittals, or other reports related to the performance of its

duties under the ordinance.

- b. Relevant City departments and agencies will provide the independent auditor with necessary applications, requests, bids and other information that may be necessary to perform its duties.
- c. Upon any city or city-related agency receiving an application for any of the items listed in section I of this ordinance, notice shall be provided by the city or city-related agency to the city's independent auditor within thirty (30) days of receipt of the application.
- d. The auditor shall examine disclosure forms filed by the applicant and the most recent campaign finance reports made by any incumbent or candidate pursuant to state law, and other available records for compliance with this ordinance and shall take the actions set forth in this ordinance.

## VI. Public Database

The auditor shall create a public electronic searchable database of all campaign contribution reports and notices provided for under this ordinance. This database should be fully operational no later than twelve (12) months after the effective date of the ordinance.

## VII. Penalties

- a. The City or a City-Related Agency shall deny the award or approval of any of the items referenced in section I as sought by an applicant if it is found that an applicant made a material misstatement on the mandatory disclosure form or if the applicant fails to comply with the provisions of section IV.
- b. If a contract has already been awarded before non-compliance with this ordinance is

discovered, and a refund is not sought within seven (7) days of receiving a written sworn request from an applicant, the result may be a material breach and loss of contract.

c. Failure of an incumbent to issue a refund as set forth in section II shall subject the incumbent to a fine as set forth in Section 1-11(b) of the Code of Ordinances.

**Be it further ordained by the Board of Aldermen**, Section 1-11(b) of the Code of Ordinances is hereby amended by inserting the following language providing for penalties:

<u>Offense</u>	<u>Fine</u>	<u>Enforcing Personnel</u>
“Pay-to-Play” and Campaign Contribution Ordinance	1 <sup>st</sup> Offense: Warning 2 <sup>nd</sup> Offense within 1 year: \$250 3 <sup>rd</sup> & Subsequent Offense within 1 year: \$250	City Ethics Commission

Approved:

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President  
Board of Aldermen