Offered by COUNCILLORS STEPHEN J. MURPHY, ROB CONSALVO, FLAHERTY, CONNOLLY, ROSS, LINEHAN, FEENEY, CIOMMO AND TOBIN

CITY OF BOSTON

IN THE YEAR TWO THOUSAND NINE

AN ORDINANCE REQUIRING CITY COUNCILLORS TO FILE STATEMENTS OF FINANCIAL INTERESTS

WHEREAS, The City Council is dedicated to ensuring transparency and good governance and feels the disclosure of financial interests furthers these important goals;

WHEREAS, Under Massachusetts General Laws Chapter 268B, Section 5 certain public employees and public officials at the state and county level, including state legislators, must file Statements of Financial Interests;

WHEREAS, In 1994 the Mayor issued an Executive Order requiring every designated public employee to file an annual Statement of Financial Interests; and

WHEREAS, Neither Massachusetts General Law Chapter 268B nor the 1994 Executive Order applies to the City Council;

WHEREAS, Massachusetts General Laws Chapter 268A, the Conflict of Interest Law, does apply to the City Council; and

WHEREAS, Financial disclosures are an effective way to prevent conflict of interest problems and ensure transparent operations; NOW, THEREFORE

Be it ordained by the City Council of Boston, as follows that the City of Boston Code be amended by adding the following ordinance:

Statement of Financial Interests Ordinance

Section 1. Title and Purpose

This Chapter shall be known as the "Statement of Financial Interests Ordinance." The purpose of this Chapter is to ensure that all City Councillors are fully reporting their relevant financial interests on a yearly basis. Such disclosures are in the interest of transparency and good governance and will help to prevent conflict of interest problems.

Section 2. Definitions

(a) *Business* shall mean 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;

(b) *Business Trust* shall mean a business (or "Massachusetts") trust generally organized pursuant to M.G.L. c. 182, or some other similar statue, for the purpose of conducting a business. It is similar to a corporation in that its ownership interest is generally divided into transferable shares or certificates which are held by the beneficiaries. These beneficiaries are similar to a corporation's stockholders. See also *Trust*;

(c) *Charitable Trust* shall mean a type of business trust, generally a not-for-profit entity organized for charitable trust purposes such as supporting certain educational, scientific or religious goals. The provisions of a charitable trust are usually enforceable by the Attorney General and such trusts are sometimes tax-exempt pursuant to IRC 501 (c) (3). See also *Trust*;

(d) *Debt* shall mean loan or liability and all collateral associated therewith, excluding installment loans, educational loans, medical and dental bills, credit card purchases, support or alimony obligations, or debt owed in the ordinary course and day-to-day operations of running a business;

(e) *Direct Interest in Legislation, Legislative Action or a Matter Before the City Council* shall mean when a person has an interest in, at any time during the relevant calendar year, (i) the use or value of his property, or (ii) the conduct of his business or (iii) the use or value of the property of or the conduct of the business of a person with which he is affiliated as an employee, officer, director, trustee, general partner, proprietor, or in a similar managerial capacity, that could be or was affected by legislation, legislative action or a matter before the City Council, unless the effect is not substantially greater than the effect generally on persons residing in Massachusetts. Any business, which is regulated by the City Council has such an interest;

(f) *Equity* shall mean any stock, partnership share, beneficial trust interest, proprietorship interest, or similar ownership interest in a business;

(g) *Fair Market Value* shall mean the value that a willing buyer would pay a willing seller for property in an arm's-length transaction. The fair market value can be determined in several acceptable ways including an actual sale or a certified valuation by an independent accountant;

(h) *Family Trust* shall mean a trust that is generally organized by a family member on behalf of some other family member to protect assets from being used by the beneficiaries (except as permitted by the trust's provisions). A family trust may be created by a written document, but need not be. See also *Trust*. Depending on the nature of the trust, the beneficiary may have either a "present interest" (a right to trust assets now) or a "future interest" (for

example, an interest that will not occur until someone's death). A "future interest" may be further classified as either "vested" or "contingent," meaning that the interest may or may not be certain to occur at some future point. Generally, if you have the right to receive any of the assets of the trust right now, you have a "present" interest in those assets. Accordingly, you would have to report ownership of those assets if valued at $1,000 or more. On the other hand, if you do not have the right to receive any of the assets of the trust right now, you do not have a "present" interest in those assets. Accordingly, you would not have to report anything about those assets;

(i) *Gifts* are anything given when full value is not returned for what was received and may include payment, entertainment, subscription, advance, discount, or services having in the aggregate a fair market value in excess of $100. This does not include gifts from a spouse, immediate family or close family (parents, grandparents, children, siblings) member nor does it include political contribution which must be otherwise disclosed in accordance with relevant laws;

(j) *Honoraria* mean a payment of money or anything of value as consideration for an appearance, speech, article or the like;

(k) *Income* shall mean any income from whatever source derived including a fee, salary, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of recompense or any combination thereof. Excluded only are the following:

- Interest from savings accounts and certificates of deposit;
- Interest from governmental obligations other than those of the Commonwealth or any political subdivision or any public agency or authority created by the state legislature;
- Alimony and support payments;
- Proceeds from a life insurance policy;
- Interest or dividends from money market funds; retirement or disability benefits profit-sharing plans, 401 (k) plans; and
- Social security payments;

(l) *Investment* shall mean any tangible or intangible property, whether personal property or realty, held primarily for the purpose of attaining an economic advantage, whether directly (as in the case of income or appreciation) or indirectly (as in the case of Tax Shelters). Excluded from this definition are, for example, properties held chiefly for enjoyment, certain retirement plans, profit-sharing plans, 401 (k) plans, insurance policies and your primary residence;

(m) *Legislative Agent* shall mean any person who for compensation or reward does any act to promote, oppose or influence legislation, or to promote or oppose or influence the governor's approval or veto thereof or to influence the decision of any member of the executive branch where such decision concerns legislation or the adoption, defeat, of postponement of a standard, rate, rule or regulation pursuant thereto. The term shall include persons who, as any part of their regular and usual employment and not simply incidental thereto, attempt to promote, oppose or influence legislation or the governor's approval or veto thereof, whether or not any compensation in addition to the salary for such employment is received for such services;

(n) *Person* shall mean a business, individual, corporation, union, association, firm, partnership, committee or other organization or groups of persons;

(o) *Realty Trust* shall mean a type of business trust generally organized for the primary purpose of buying, selling, holding, or investing real property usually created by a written instrument. These trusts are sometimes also Real Estate Investment Trusts or "REITS." See also *Trust*;

(p) *Reimbursement* is a payment for money expended or to be expended (for example, travel, meals, or lodging), which is for actual expenses incurred or to be incurred reasonably related to the event to which they are connected;

(q) *Security* shall mean any note, stock, bond, debenture, evidence of a debt owed to you or to your spouse, certificate of interest or participation in any profit-sharing arrangement, certificate of interest in any mutual fund, stock, or commodity option, or similar evidence of ownership or interest, or a receipt or certificate of deposit for, or warrant or right to subscribe to or purchase, any of the foregoing;

(r) *Tax Shelter* shall mean any device used by taxpayer to reduce or to defer payment of taxes. Tax shelters organized either as a business or as an investment and are reportable on Statements of Financial Interests as such. Retirement plans are not considered Tax Shelters and are generally not reportable;

(s) *Trust* shall mean a legal entity in which the actual (or "beneficial") ownership of property is separated from its legal ownership. The legal ownership is held by a Trustee who owes certain duties to the beneficiaries. Those duties usually arise by a written document (a "Declaration of Trust," for example);

Section 3. Statement of Financial Interests

All City Councillors must file an annual Statement of Financial Interests with the City Clerk on or before June 1 of each calendar year for the preceding calendar year. The forms for such Statements will be provided by the City Clerk and all Councillors' must fill out the forms in their entirety. Information required to be provided in the Statement of Financial Interest shall include the following:

(a) The Councillor's name and home address and the name of the Councillor's spouse if he or she resides with the Councillor;

(b) Any other governmental position(s) held by the Councillor and the Councillor's spouse in any federal, state, county, district, or municipal agency, compensated or uncompensated, full or part-time in the relevant calendar year, income of Councillor's position(s) must be disclosed, but not the income of the Councillor's spouse;

(c) Each business, including non-profit organizations, with which the Councillor or the Councillor's spouse were associated in the relevant calendar year as an employee, or as a partner, proprietor, director, or in any managerial capacity, full or part-time, compensated or uncompensated, income of Councillor's position(s) must be disclosed, but not the income of the Councillor's spouse;

(d) Any business, the equity of which the Councillor and/or the Councillor's spouse owned more than one percent (1 %) during the relevant calendar year; the Councillor's percentage ownership must be disclosed, but not the percentage ownership of the Councillor's spouse;

(e) Any equity in a business with which the Councillor is associated which the Councillor transferred to the Councillor's spouse within the relevant calendar year;

(f) Any business with which the Councillor was previously associated with which the Councillor had an understanding in the relevant calendar year with regard to future employment;

(g) Any gifts, honoraria and reimbursements received by the Councillor or the Councillor's spouse during the relevant calendar year; the Councillor's spouse must report the gift, honoraria and reimbursement only if the source was a legislative agent and does not need to report the amount; the Councillor must report the gift only if the City Council regulates the source, or if the source had or has a direct interest in a matter, legislation or legislative action before the City Council;

(h) Any security with a fair market value of $1,000 or more, issued by the Commonwealth, any public agency or any municipality, owned by the Councillor or the Councillor's spouse and any income received by the Councillor in the relevant calendar year in excess of $1,000;

(i) Any security and other investments with a fair market value greater than $1,000 beneficially owned by the Councillor or the Councillor's spouse for any part of the relevant calendar year;

(j) Any interest held by the Councillor or the Councillor's spouse in a trust as of January 1 of the relevant calendar year, including business, charitable, family, and/or realty trusts;

(k) Any real property in Massachusetts with an assessed value greater than $1,000 in which the Councillor or the Councillor's spouse held an interest in as of December 31 of the relevant calendar year;

(l) Any real property in Massachusetts or out-of-state, including time-shares, with an assessed value of $1,000 or more, held for investment or rental purposes, which the Councillor or the Councillor's spouse had a direct or indirect financial interest as of December 31 of the relevant calendar year;

(m) Any real property interest in Massachusetts which was purchased, sold, or otherwise transferred to or from the Councillor and/or the Councillor's spouse any time during the relevant calendar year;

(n) Any mortgage loan including second mortgage loans and home equity loans in excess of $1,000 outstanding on December 31 of the relevant calendar year for which the Councillor or the Councillor's spouse was obligated;

(o) Any parcel of real estate on which the Councillor or the Councillor's spouse held a mortgage in the relevant calendar year, including the name of the issuer and the assessed value;

(p) Certain debt, loan or other liability in excess of $1,000 owed by the Councillor or the Councillor's spouse on December 31 of the relevant calendar year; and

(q) Any creditor who during the relevant calendar year forgave indebtedness in excess of $1,000 owed by the Councillor or the Councillor's spouse.

Section 4. Penalties and Enforcement.
Any Councillor who knowingly files a false Statement of Financial Interests and fails to cure any falsity shall be punished by a fine of three hundred ($300) dollars. Any Councillor who fails to file an annual Statement of Financial Interests or fails to fill out the form in its entirety shall receive a written warning by the City Clerk notifying them of their failure. Failure to file a Statement of Financial Interests or complete any filed Statement of Financial Interests within thirty (30) days of receiving the City Clerk's written warning shall result in a fine of three hundred ($300) dollars for each month the Councillor fails to file. However, any Councillor who becomes aware of an error or needs to amend a previously filed Statement of Financial Interests shall be able to make such a cure at any time without penalty.

Section 5.

The provisions of theses sections shall become effective immediately upon passage.