



Mayor Joshua Garcia

City of Holyoke

Law Department

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December 19, 2022

Honorable City Council
536 Dwight Street
Holyoke, MA 01040

Dear Honorable Councilors:

The following is written in response to a request for an opinion regarding whether a City Council seat is vacated if a ward councilor is elected in one ward and then moves to a different ward during their time in office.

There is no explicit requirement in the Charter or Ordinances that states that a City Councilor must maintain residency in their ward for their entire term. Section 9 of the Holyoke City Charter states that "the voters of the city at large shall elect eight councilors at large and the voters of each ward shall elect one councilor who shall be a resident therein." (See also the Acts of 2015 Ch. 89, an Act reducing the Size of the City Council of the City of Holyoke (adopted March 3, 2015; approved by the General Court Sept 29, 2015.) This provision of the Charter clearly requires that an elected councilor be a resident of the ward they are seeking a seat in at the time they are elected.

There does not appear to be language in the Charter or Ordinances to explain that a vacancy is created if one ceases to be a resident of the ward to which they are elected. Section 46 of the Holyoke City Charter states that a vacancy is created only if the incumbent ceases to be a resident of the city or is convicted of a crime punishable by imprisonment.

Section 13 of the Charter states "the City Council shall determine the rules of its own proceedings and shall be the judge of the election and qualifications of its members." While this section is in some ways in conflict with section 46 which states clearly when a vacancy is created, Section 13 gives the Council itself the responsibility for determining the qualifications of its own members. For this particular question, it could be argued that the City Council as a body would have the power to determine whether a vacancy exists as a result of a ward councilor moving out of their elected ward, and then to appoint someone to fill the vacancy.

In conclusion, there is no explicit requirement in the Charter or Ordinances for a City Councilor to maintain residency in their ward for their entire term. It is my opinion that there is no vacancy in a ward seat if a City Council member moves out of their ward as long as they remain a resident of the City.

20 KOREANS VETERANS PLAZA, SUITE 204 · HOLYOKE, MASSACHUSETTS 01040-5836
PHONE: (413) 322-5580 · FAX: (413) 322-5581

Birthplace of Volleyball



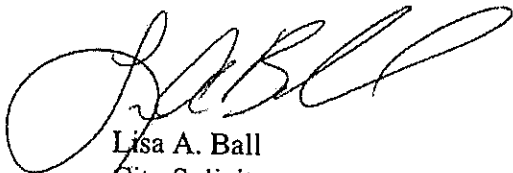
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Please let me know if you have any questions.

Respectfully,



Lisa A. Ball
City Solicitor

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