



Legislation Text

File #: 160453, Version: 1

160453 SUBSTITUTE 1

ALD. HAMILTON AND MURPHY

A substitute charter ordinance relating to residency requirements for city law enforcement, fire and emergency employees and officers.

5-02-1 rc
5-02-2 am
5-02-3 am
5-02-4 rp
5-02-4 ra
5-02-5 ra
5-02-6 ra
5-02-6-a am
5-02-6-b-0 am
5-02-6-b-1 am
5-02-6-b-2 am
5-02-6-b-5 am
5-02-7 rn
5-02-8 rp
5-02-9 rp
5-02-10 rn

This ordinance requires city law enforcement, fire and emergency employees to reside within 15 miles of the jurisdictional boundaries of the city of Milwaukee. In addition, this ordinance grants the fire and police commission and the city service commission the authority to administer, interpret, and enforce the provisions of residency requirements, including the definition and identification of emergency personnel.

The Mayor and Common Council of the city of Milwaukee do ordain as follows:

Part 1. Section 5-02-1 of the charter is repealed and recreated to read:

5-02. Residency Requirements.

1. RESIDENCY REQUIRED. Every law enforcement, fire and emergency employee shall establish and maintain his or her actual residence within 15 miles of the jurisdictional boundaries of the city of Milwaukee. Any such employee who does not reside within the prescribed distance from the city shall be ineligible for employment by the city, and he or she shall be separated from service under this section and the applicable rules of the city service commission or the fire and police commission. These commissions shall be vested with the responsibility for the administration, interpretation and enforcement of the residency requirement, including the designation of emergency personnel.

Part 2. Section 5-02-2 and 3 of the charter is amended to read:

2. DEFINITION. The term "residence" employed in this section shall be construed to mean the actual living quarters which must be maintained ~~[[within the city]]~~ by an employee specified in sub. 1 . Neither where an employee votes ~~voting in the city]]~~ nor the payment of taxes of any kind by itself by an employee shall be deemed adequate to satisfy the requirements of this section, nor shall the provisions of this section be satisfied by the maintaining of a rented room or rooms by an employee solely for the purpose of establishing residence ~~[[in the city]]~~ within 15 miles of the jurisdictional boundaries of the city when it appears that his or her residence is outside of ~~[[the]] the prescribe distance from the~~ city. Ownership of real property within the city, when not coupled with maintaining of actual living quarters ~~[[in]]~~ within the prescribed distance from the city as >> herein required, shall be deemed insufficient to meet the requirements of this section. The city service commission or the fire and police commission is authorized to investigate complaints made to either commission ~~[[it]]~~ with respect to the residence of employees of the city and may initiate any such investigation on its own motion. Whenever such investigation shall be made, the city service commission or the fire and police commission shall make a finding with respect to whether or not such an employee is or is not actually ~~[[a resident of]]~~ residing within the prescribed distance from the city in accordance with the requirements set forth herein and their accompanying rules . No consideration shall be given by the city service commission or the fire and police commission to the fact that such employee intends to maintain a residence ~~[[in the city]]~~ within 15 miles of the jurisdictional boundaries of the city if the employee actually ~~[[he or she]]~~ >> does not maintain such a residence as herein provided for.

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3. DUAL RESIDENCE. In cases in which dual or multiple residences are rented, owned or maintained by an employee, it is not sufficient for the employee to claim that ~~[[city]]~~ he or she meets the residency requirement because of rental, ownership or maintenance of a residence ~~[[in]]~~ within the prescribed distance from the city if the employee's actual living quarters are not ~~[[in the city]]~~ <within 15 miles of the jurisdictional boundaries of the city . The city service commission or the fire and police commission shall make a final determination in dual or multiple residence cases as to which location constitutes an employee's actual living quarters, and it shall be the location >> which will be considered in establishing whether an employee complies with the intent of this section and ~~[[city service]]~~ appropriate rules relating to residency. ~~[[The city service commission shall promulgate and publish a policy statement describing factors which it will consider when making residency determinations. This statement will in no way limit the commission's consideration to any specific set of factors.]]~~ Decisions involving dual or multiple residency shall be based upon the totality of circumstances present in each case. The decision of the city service commission or the fire and police commission shall be final in respect to whether or not such employee's residence satisfies the provisions and requirements of this section. >>

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Part 3. Section 5-02-4 of the charter is repealed.

Part 4. Section 5-02-5 and 6 of the charter is renumbered 5-02-4 and 5 and amended to read:

4. ACTION BY DEPARTMENT HEAD. Whenever a department head finds that an employee ~~[[is not a resident of the city]]~~ does not reside within the prescribed distance from the

city, ~~[[within the meaning of this section,]]~~ the department head shall immediately file a written complaint against that employee to effectuate the separation of that employee from the service.

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5. EXTENSION. Whenever it shall appear to the city service commission or the fire and police commission that good cause exists for granting extensions of time to employees of the city to obtain residences within 15 miles of the jurisdictional boundaries of the city, ~~or~~ if it shall appear to the city service ~~commission~~ or the fire and police commission that a new or prospective employee of the city would require a reasonable period of time in order to ~~[[acquire]]~~ establish a residence ~~[[in]]~~ within the prescribed distance from the city so as to ~~[[qualify for a position in city service,]]~~ meet the requirements of this section, the city service commission ~~or the fire and police commission~~ may allow such employee a period of not to exceed 6 months in which to satisfy the requirements of this section. << >>

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Part 5. Section 5-02-7 of the charter is renumbered 5-02-6.

Part 6. Section 5-02-6-a, b-0, 1, 2 and 5 of the charter is amended to read:

6. HARDSHIP EXCEPTIONS.

a. Whenever it shall appear to the city service commission or the fire and police commission , considering ~~[[the]]~~ standards ~~[[hereafter]]~~ enumerated in the commission's rules , that an employee should be granted temporary exception from the requirements of this section, the city service << commission or the fire and police commission shall make a finding based upon the ~~[[standards and shall file a report with the committee on finance and personnel, listing the name of the employee and the reason or reasons for the exception, such report to be filed within 15 days of such action]]~~ evidence presented . >>

b. ~~[[In the event that]]~~ If a city employee weds an employee of another jurisdiction which also has a residency requirement, mandating that its employee reside within 15 miles of that jurisdiction's boundaries, and if that employment is in effect at the time of the marriage, the city service commission or the fire and police commission may grant the city employee an exemption from the city's residency requirements, provided that the following conditions are and remain in effect:

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b-1. That the other jurisdiction is willing to enter into an appropriate reciprocity agreement with the city service commission or fire and police commission concerning such transactions.

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b-2. That the city employee actually resides with his or her spouse within 15 miles of the jurisdictional boundaries of ~~in]]~~ the spouse's jurisdiction. >>

b-5. That the residency requirements of the other jurisdiction would preclude the married couple from living within 15 miles of the jurisdictional boundaries ~~in]]~~ of the city of Milwaukee.

Part 7>>Section 5-02-8 and 9 of the charter is repealed<< [[>> <<

Part 8. Section 5-02-10 of the charter is renumbered 5-02-7.

Part 9. This is a charter ordinance and shall take effect 60 days after its passage and publication, unless within such 60 days a referendum petition is filed as provided in s. 66.0101(5), Wis. Stats., in which event this ordinance shall not take effect until submitted to a referendum and approved by a majority of the electors voting thereon.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFOCEABLE

Office of the City Attorney

Date: _____

Department of Employee Relations

La-Wanda G. Fletcher

LRB165366-2

07/18/2016