



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
January 27, 2022

Department Administration

Director Approval Kelly Passauer

AGENDA ITEM Consider adopting an ordinance establishing residency requirements for employees of the City of Independence.

SUMMARY RECOMMENDATION Adopt the Ordinance.

BACKGROUND On October 27, 2021 the City Commission adopted a charter ordinance exempting the City from the provisions of K.S.A. 14-1502 having to do with Residency Requirements for City Employees. The Charter Ordinance was published for two consecutive weeks and was to become effective 61 days after publication. Once it takes effect, the City Commission can adopt a regular ordinance on the issue of residency. According to the City Clerk, the effective date of the charter ordinance is January 27, 2022. The City Attorney has prepared an ordinance regarding residency.

The proposed ordinance is similar to the residency policy that was adopted on October 9, 2017 and incorporated into the City Personnel Rules and Regulations.

SUGGESTED MOTION I move to adopt an ordinance establishing residency requirements for employees of the City of Independence.

SUPPORTING DOCUMENTS

1. Proposed Ordinance establishing residency requirements
2. October 27, 2021 RCA
3. Charter Ordinance No. 15

ORDINANCE NO. 4379

An Ordinance Establishing Residency Requirements for Employees of the City of Independence, Kansas

BE IT ORDAINED by the Governing Body of the City of Independence, Kansas:

Section 1. Purpose. The governing body believes that it is desirable and in the best interests of the public that city employees reside within close proximity to the city limits of the City of Independence, Kansas.

Section 2. Restrictions.

- a. All employees must reside within a 90-mile radius of City Hall, Independence, Kansas.
- b. All department heads and supervisors must live within Montgomery County, Kansas.
- c. In the case of a city employee who is promoted to the position of department head or supervisor who does not reside within Montgomery County, such employee must reside within a 50-mile radius of City Hall, Independence, Kansas.
- d. Should any employee of the City of Independence change residence after being hired or promoted, such employee must meet the residency requirement of living within Montgomery County, Kansas.
- e. Any employee who does not meet the residency requirement specified in subsection "a" or subsection "b" above at the time of their employment by the City of Independence shall establish such residency within six months thereafter.

Section 3. Extension or Waiver. For good cause shown, and in the best interest of the City of Independence, Kansas, the city manager may grant an extension for any time requirement stated above or may grant a waiver of any residency required stated above.

Section 4. Residency of City Manager. Any residency requirement as to the city manager of the City of Independence shall be a contractual matter between the city manager and the governing body, and shall be addressed in the contract of employment between the city manager and the governing body.

Section 5. Effective Date. This Ordinance shall take effect upon its publication in the official City newspaper.

Adopted by the Governing Body of the City of Independence, Kansas, on the 27th day of January, 2022.

DEAN HAYSE, Mayor

ATTEST:

DAVID W. SCHWENKER, City Clerk



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
October 27, 2021

Department Administration

Director Approval *Kelly Passauer*

AGENDA ITEM Consider adopting a charter ordinance exempting the City from the provisions of K.S.A. 14-1502 having to do with Residency Requirements for City Employees.

SUMMARY RECOMMENDATION Adopt the Charter Ordinance.

BACKGROUND Recently City staff attended “Municipal Procedures for Staff” sponsored by the League of Kansas Municipalities. During the training, staff learned that there was a residency requirement for appointed City officials for second class cities with a Commission-Manager form of government requiring residency within the City or within two miles, with the exception of expert employees, the municipal judge and law enforcement officers who had to be residents of the State.

Due to difficulty in filling positions, on October 9, 2017 the residency requirement was modified to allow employees to live within a 90-mile radius, with other specific positions being required to reside within Montgomery County. Prior to this modification, employees were required to live within Montgomery County, with other specific positions being required to reside within an approximate ten-mile boundary or within the City.

The City Attorney has prepared a charter ordinance that exempts the City from KSA 14-1502, which is allowed since Chapter 14 of the statute book only applies to 2nd class cities and is not uniformly applicable to all cities. If adopted, the Charter Ordinance would need to be published for two consecutive weeks, and then it takes effect after 61 days. Once it takes effect, the City Commission can adopt a regular ordinance on the issue of residency.

SUGGESTED MOTION I move to adopt a charter ordinance exempting the City from the provisions of K.S.A. 14-1502 having to do with Residency Requirements for City Employees.

SUPPORTING DOCUMENTS

1. Statute
2. Proposed Charter Ordinance

14-1502. Persons not eligible to office. No person shall be eligible to any appointive office unless he or she shall be a bona fide resident of the city or of the territory within a two (2) mile radius of such city prior to his or her appointment, except that the city may hire nonresident expert employees or appoint nonresidents as a municipal judge or as law enforcement officers when deemed necessary by the board of commissioners, including the appointment of nonresidents who also serve as municipal judge or law enforcement officers of another municipality or public agency: Provided, That nothing herein shall authorize the appointment of nonresidents of this state.

History: L. 1909, ch. 82, § 23; R.S. 1923, § 14-1502; L. 1961, ch. 107, § 1; L. 1967, ch. 90, § 9; July 1.

Source or Prior Law:

L. 1907, ch. 123, § 21.

CHARTER ORDINANCE NO. 15

A Charter Ordinance Exempting the City of Independence, Kansas, from the Provisions of K.S.A. 14-1502 having to do with Residency Requirements for City Employees

BE IT ORDAINED by the Governing Body of the City of Independence, Kansas:

Section 1. The City of Independence, Kansas, by the power vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt itself and make inapplicable to it the provisions of K.S.A. 14-1502. This statutory provision is an enactment of the legislature, which is applicable to the City of Independence, but not uniformly applicable to all cities.

Section 2. The governing body may enact, by ordinary ordinance, substitute and additional provisions on the subject matter contained in the statutes being exempted.

Section 3. This ordinance shall be published once each week for two (2) consecutive weeks in the in the official City newspaper.

Section 4. This is a charter ordinance and shall take effect sixty-one (61) days after final publication unless a sufficient petition for referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, of the Constitution of the State of Kansas, after which the charter ordinance shall become effective if approved by a majority of the electors voting thereon.

Adopted by the Governing Body of the City of Independence, Kansas, by not less than two-thirds of the members elect voting in favor thereof on the 27th day of October, 2021.



ATTEST:


DAVID W. SCHWENKER, City Clerk


LOUIS YSUSI, Mayor



State of Kansas, Montgomery County
This instrument was filed for
Record on October 28, 2021 2:07 PM
Recorded in Book 709 Page 51 - 51
Fee: \$0.00 202104437




Marilyn Calhoun, Register of Deeds