



A C WHARTON, JR. - Mayor
GEORGE M. LITTLE - Chief Administrative Officer
LAW DIVISION
HERMAN MORRIS, JR. - City Attorney

November 15, 2010

Mr. J. D. Sewell, President
Memphis Police Association
638 Jefferson Avenue
Memphis, Tennessee 38105

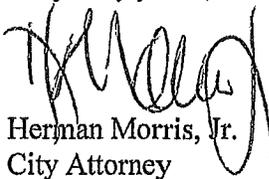
Dear Mr. Sewell:

The Mayor has asked me to respond to your letter dated November 4, 2010, regarding the impact of the referendum changing the residency requirements for the City of Memphis employees. The new residency requirement ordinance will go into effect in January, 2011, sixty days after the November 4, 2010 vote. Essentially it will expand the geographic residency limits to Shelby County. I do not believe it will "take away" any rights of employees hired before 2005 or those who already have the rights to live in Shelby County.

Enclosed is a memo that addresses the matter.

If I can be of any further assistance or should you have any other questions regarding this matter, please feel free to contact me.

Very truly yours,



Herman Morris, Jr.
City Attorney

HMJ: ac

Enclosure

xc: A C Wharton, Jr., Mayor

ORDINANCE NO.

5063

AN ORDINANCE TO AMEND THE CHARTER OF THE CITY OF MEMPHIS, SAME BEING CHAPTER 11 OF THE ACTS OF 1879 AS AMENDED, PURSUANT TO THE PROVISIONS OF ARTICLE 11 SECTION 9 OF THE CONSTITUTION OF THE STATE OF TENNESSEE HOME RULE AMENDMENT SO AS TO AMEND THE RESIDENCY REQUIREMENT OF PERSONS EMPLOYED SOLELY BY CITY SECTION 190 AND TO SUBMIT THE PROPOSED ORDINANCE TO THE QUALIFIED VOTERS OF THE CITY OF MEMPHIS AT THE FIRST GENERAL STATE ELECTION TO BE HELD NOVEMBER 2, 2004.

WHEREAS, it is deemed advisable and in the best interest of the citizens of the City of Memphis that the present Charter of said City be amended by ordinance as provided by Article 11, Section 9, of the Constitution of the State of Tennessee (Home Rule Amendment).

Section 1.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, and submitted by the City of Memphis to its qualified voters at the first general State election, which shall be held in the City of Memphis on November 2, 2004, and which shall be held at least sixty (60) days after such publication:

QUESTION:

Shall Article 27 Section 190 of the Charter of the City of Memphis, Tennessee be deleted by substituting the following language to read as follows:

"Section 190. Residence requirements of persons employed solely by city and board and commission members.

(a) "Hereafter all persons, employed solely by the City of Memphis or any of its departments, boards, bureaus or commissions, shall be required to live and maintain a residence within the boundaries of the City of Memphis, as now defined or as may be hereafter defined and except that the City Council may exempt therefrom employees of any division, board, department or bureau whose duties as employees of such departments, boards, bureaus of commissions require them to perform services for the city outside the territorial limits therein."

(b) Failure of any officer or employee to comply with the provisions of this section shall be cause for removal or discharge from city employment, except that no individual employed by the city as of the effective date of this ordinance, including any appointed employee who may be later reappointed, shall be disciplined or discharged for failure to comply. New employees shall be allowed six (6) months after the date they are hired or appointed to comply with this section.

Section 2. Publication of Home Rule Amendment.

BE IT FURTHER ORDAINED, That the Comptroller is hereby directed to cause the Ordinance to be published pursuant to provisions of Article 11; Section 9 of the Constitution of the State of Tennessee.

Tom

Comptroller General 5/4/04 add-on

#42

Section 3. Delivery to Election Commission.

BE IT FURTHER ORDAINED, That the Comptroller of the City of Memphis shall certify the adoption of this Ordinance to the Shelby County Election Commission in charge of holding the general State election on November 2, 2004, and request that this proposed amendment to the Home Rule Charter of the City of Memphis be placed on the ballot.

Section 4. Proposal and preference.

BE IT FURTHER ORDAINED, That the Comptroller be and he is hereby directed to deliver a copy of this Ordinance to the Shelby County Election Commission, together with a suggested proposal and the following form of preference to be placed on the ballot in an election to be held on the 2nd day of November, 2004:

REFERENDUM ON HOME RULE AMENDMENT TO THE
CHARTER OF THE CITY OF MEMPHIS TO REQUIRE ALL
CITY GOVERNMENT EMPLOYEES LIVE WITHIN THE
BOUNDARY OF THE CITY OF MEMPHIS

Said Ordinance of the City of Memphis was adopted on the 1st day of June, 2004, to provide for referendum vote on a Home Rule Amendment to the Charter of the City of Memphis, to read as follows:

(a) "Hereafter all persons, employed solely by the City of Memphis or any of its departments, boards, bureaus or commissions, shall be required to live and maintain a residence within the boundaries of the City of Memphis, as now defined or as may be hereafter defined and except that the city council may exempt therefrom employees of any division, board, department or bureau whose duties as employees of such departments, boards, bureaus of commissions require them to perform services for the city outside the territorial limits therein."

(b) Failure of any officer or employee to comply with the provisions of this section shall be cause for removal or discharge from city employment, except that no individual employed by the city as of the effective date of this ordinance, including any appointed employee who may be later reappointed, shall be disciplined or discharged for failure to comply. New employees shall be allowed six (6) months after the date they are hired or appointed to comply with this section.

FOR (YES) _____

AGAINST (NO) _____

Section 5. Effective Date of Charter Amendment.

BE IT FURTHER ORDAINED, That this Ordinance shall take effect for the purposes set forth herein sixty (60) days after approval by a majority of the qualified voters voting thereon in an election to be held on the 2nd day of November, 2004, the public welfare, requiring it.

Section 6. Certification of Results.

BE IT FURTHER ORDAINED, That the Shelby County Election Commission certify the result of said election to the Comptroller of the City of Memphis, who shall see that said result is made a part of the Minutes of the Council of the City of Memphis.

Section 7. Nonconflicting - Conflicting Laws.

BE IT FURTHER ORDAINED, That upon adoption of this Home Rule Amendment all laws constituting the present Charter of the City of Memphis, not in conflict with this amendatory Home Rule Ordinance, be and the same are here continued in full force and effect, and all laws in conflict therewith are hereby repealed.

Section 8. Severability.

BE IT FURTHER ORDAINED, That if any clause, section, paragraph, sentence or part of this Ordinance shall be held or declared to be unconstitutional and void, it shall not affect the remaining parts of this Ordinance, it is hereby declared to be the legislative intent to have passed the remainder of this Ordinance notwithstanding the parts to be held to be invalid, if any.

Section 9. Effective Date of Referendum Ordinance.

BE IT FURTHER ORDAINED, That this Referendum Ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of the Mayor in writing by the Comptroller, and become effective as otherwise provided by law.

CHAIRMAN OF COUNCIL

Attest:

Comptroller

THE FOREGOING ORDINANCE
5003 PASSED

1st Reading 5-4-04

2nd Reading 5-18-04

3rd Reading 6-1-04

Approved: Joe Brown
Chairman of Council

Date Signed: 6-15-04

Approved: [Signature]
Mayor, City of Memphis

Date Signed: JUNE 24 - 2004

I hereby certify that the foregoing is a true copy, and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.

Rebecca Kuringer
Comptroller

Referendum Ordinance No. 5265

AN ORDINANCE TO AMEND THE CHARTER OF THE CITY OF MEMPHIS, THE SAME BEING CHAPTER 11 OF THE ACTS OF 1879, AS AMENDED, TO REINSTATE ARTICLE 27, SECTION 190, SUBSECTION B THEREOF, PURSUANT TO THE PROVISIONS OF ARTICLE 11 SECTION 9 OF THE CONSTITUTION OF THE STATE OF TENNESSEE (HOME RULE AMENDMENT) SO AS TO REINSTATE THE RESIDENCY REQUIREMENT FOR APPOINTED PERSONS EMPLOYED SOLELY BY THE CITY AND TO SUBMIT THE PROPOSED ORDINANCE TO THE QUALIFIED VOTERS OF THE CITY OF MEMPHIS AT THE FIRST GENERAL STATE ELECTION TO BE HELD NOVEMBER 4, 2008.

Whereas, it is deemed advisable and in the best interest of the citizens of the City of Memphis that Section 190, Subsection 'b' of the Charter of the City which was inadvertently deleted (in error) on November 2, 2004 be reinstated by ordinance as provided by Article 11, Section 9, of the Constitution of the State of Tennessee (Home Rule Amendment).

SECTION 1.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, and submitted by the City of Memphis to its qualified voters at the first general state election, which shall be held in the City of Memphis on November 4, 2008, and which shall be held at least sixty (60) days after such publication:

QUESTION:

Shall Article 27 Section 190 Subsection (b) of the Charter of the City of Memphis, Tennessee be reinstated by submitting the following language to read as follows:

Section 190. Residence requirements of persons employed solely by the City; [non-civil service employees and board and commission members].

- (b) From and after January 1, 1985, all appointed employees not within the protection of the civil service article shall be required to live and maintain a residence within the boundaries of the City of Memphis as now defined or as may be hereafter defined; such appointed employees shall include, but not limited to, the following specific groups:

#8

- (1) Division directors who are appointed by the mayor and council
- (2) All employees of the legal department.
- (3) All staff employees of the mayor and chief administrative office.
- (4) Executive secretaries of boards, commissions, division directors, and to the administrative judge of the city court.
- (5) All employees of the city council office.

Additionally all members of the various City of Memphis boards and commissions, excluding joint city-county boards and commissions, shall be required to live and maintain a residence within the limits of the City of Memphis, as now defined or as may be hereafter defined, except that county residents may become members of the board of trustees of the Memphis Brooks Museum of Art.

Failure of any officer or employee to comply with the provisions of this section shall be cause for removal or discharge from city employment. New employees shall be allowed six (6) months after the date they are hired or appointed to comply with this section.

SECTION 2. PUBLICATION OF HOME RULE AMENDMENT.

BE IT FURTHER ORDAINED, That the Comptroller is hereby directed to cause the Ordinance to be published pursuant to provisions of Article 11, Section 9 of the Constitution of the State of Tennessee.

SECTION 3. DELIVERY TO ELECTION COMMISSION.

BE IT FURTHER ORDAINED, That the comptroller or the City of Memphis shall certify the adoption of this Ordinance to the Shelby County Election Commission in charge of holding the general State election on November 4, 2008, and request that this proposed amendment to the Home rule Charter of the City of Memphis be placed on the ballot.

SECTION 4. PROPOSAL AND PREFERENCE.

BE IT FURTHER ORDAINED, That the Comptroller of the City of Memphis is hereby directed to deliver a copy of this Ordinance to the Shelby County Election Commission, together with a suggested proposal and the following form of preference to be placed on the ballot in an election to be held on the 4th day of November, 2008:

REFERENDUM ON HOME RULE AMENDMENT TO THE
CHARTER OF THE CITY OF MEMPHIS TO REQUIRE ALL
APPOINTED CITY GOVERNMENT EMPLOYEES TO LIVE
WITHIN THE BOUNDARIES OF THE CITY OF MEMPHIS

Said Ordinance of the City of Memphis was adopted on the 15th day of July, 2008, to provide for referendum vote on a Home Rule Amendment to the Charter of the City of Memphis to read as follows:

- (a) From and after January 1, 1985 all appointed employees not within the protection of the civil service article shall be required to live and maintain a residence within the boundaries of the City of Memphis as now defined or as may be hereafter defined; such appointed employees shall include, but not limited to, the following specific groups:
- (1) Division directors who are appointed by the mayor and council
 - (2) All employees of the legal department.
 - (3) All staff employees of the mayor and chief administrative office.
 - (4) Executive secretaries of boards, commissions, division directors, and to the administrative judge of the city court.
 - (5) All employees of the city council office.

Additionally all members of the various City of Memphis boards and commissions, excluding joint city-county boards and commissions, shall be required to live and maintain a residence within the limits of the City of Memphis, as now defined or as may be hereafter defined, except that county residents may become members of the board of trustees of the Memphis Brooks Museum of Art.

Failure of any officer or employee to comply with the provisions of this section shall be cause for removal or discharge from city employment. New employees shall be allowed six (6) months after the date they are hired or appointed to comply with this section.

FOR (YES) _____

AGAINST (NO) _____

SECTION 5. EFFECTIVE DATE.

BE IT FURTHER ORDAINED, That this ordinance shall take effect for the purposes set forth herein sixty (60) days after approval by a majority of the qualified voters voting thereon in an election to be held on the 4th of November, 2008, the public welfare requiring it.

SECTION 6. CERTIFICATION OF RESULTS.

BE IT FURTHER ORDAINED, That the Shelby County Election Commission certify the result of said election to the Comptroller of the City of Memphis, who shall see that said result is made a part of the Minutes of the Council of the City of Memphis.

SECTION 7. NONCONFLICTING-CONFLICTING LAWS.

BE IT FURTHER ORDAINED, That upon adoption of this Home Rule Amendment, all laws constituting the present Charter of the City of Memphis, not in conflict with this amendatory Home Rule Ordinance, be and the same are continued in full force and effect, and all laws in conflict therewith are hereby repealed.

SECTION 8. SEVERABILITY.

BE IT FURTHER ORDAINED, That if any clause, sentence, paragraph, section or part of this ordinance shall be held or declared to be unconstitutional or void, it shall not affect the remaining parts of this ordinance, it being hereby declared to be the legislative intent to have passed the remainder of this ordinance notwithstanding the parts so held to be invalid, if any.

SECTION 9. EFFECTIVE DATE OF REFERENDUM ORDINANCE.

BE IT FURTHER ORDAINED , That this Referendum Ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of the Mayor in writing by the Comptroller, and become effective as otherwise provided by law.

SCOTT MCCORMICK
Chairman of Council

Attest:

PATRICE THOMAS
City Comptroller

THE FOREGOING ORDINANCE

5265 PASSED

1st Reading 6-17-2008

2nd Reading 7-1-2008

3rd Reading 7-15-2008

Approved Scott McCormick
Chairman of Council

Date Signed: 8-05-2008

Approved: [Signature]
Mayor, City of Memphis

Date Signed: 8-11-08

I hereby certify that the foregoing is a true copy, and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.

Valerie C. Soupsis
Comptroller

Referendum Ordinance No. 5345

A REFERENDUM ORDINANCE AMENDING ARTICLE 27, SECTION 190 OF THE CHARTER OF THE CITY OF MEMPHIS, SAME BEING CHAPTER 11 OF THE ACTS OF 1879, PURSUANT TO THE PROVISIONS OF ARTICLE 11 SECTION 9 OF THE CONSTITUTION OF THE STATE OF TENNESSEE HOME RULE AMENDMENT SO AS TO REQUIRE ALL PERSONS EMPLOYED BY THE CITY OF MEMPHIS TO LIVE WITHIN SHELBY COUNTY, TENNESSEE.

Whereas, Section 190 of the Memphis City Charter was amended by Home Rule Ordinance No. 5265 and a referendum ordinance of November 4, 2008, was approved by the voters requiring that all employees must live and maintain a residence within the boundaries of the City of Memphis.

Section 1. Proposed Amendment

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS and submitted by the City of Memphis to its qualified voters at the first general state election, which shall be held in the City of Memphis on November 2, 2010, and which shall be held at least sixty (60) days after such publication:

QUESTION:

Shall the Charter of the City of Memphis, Tennessee be amended to require all persons employed by the City of Memphis to live and reside within Shelby County, Tennessee?

Section 2. Publication of Home Rule Amendment

BE IT FURTHER ORDAINED, That the Comptroller is hereby directed to cause the Ordinance to be published pursuant to provisions of Article 11, Section 9 of the Constitution of the State of Tennessee.

Section 3. Delivery to Election Commission

BE IT FURTHER ORDAINED, That the Comptroller of the City of Memphis shall certify adoption of this Ordinance to the Shelby County Election Commission in charge of holding the general State election on November 2, 2010, and request that this proposed amendment to the Home Rule Charter of the City of Memphis be placed on the ballot.

*Special Item #4 (3-23-2010)
Item # 25 (3-9-2010)*

Section 4. Proposal and preference

BE IT FURTHER ORDAINED, That the Comptroller of the City of Memphis is hereby directed to deliver a copy of this Ordinance to the Shelby County Election Commission, together with a suggested proposal and the following form of preference to be placed on the ballot in an election to be held on the 2nd day of November 2010:

REFERENDUM ORDINANCE REQUIRING ALL PERSONS EMPLOYED BY THE CITY OF MEMPHIS TO RESIDE WITHIN SHELBY COUNTY, TENNESSEE.

Said ordinance of the City of Memphis was adopted on the _____ day of _____, 2010, to provide for referendum vote on a Home Rule amendment to the Charter of the City of Memphis, to read as follows:

Shall the Charter of the City of Memphis, Tennessee be amended to require persons employed with the City of Memphis to live and reside within Shelby County, Tennessee?

FOR (YES) _____
AGAINST (NO) _____

Section 5. Effective Date of Charter Amendment

BE IT FURTHER ORDAINED, That this Ordinance shall take effect for the purposes set forth herein sixty (60) days after approval by a majority of the qualified voters voting thereon in an election to be held on the 2nd day of November, 2010, the public welfare, requiring it.

Section 6. Certification of Results

BE IT FURTHER ORDAINED, That the Shelby County Election Commission certify the result of said election to the Comptroller of the City of Memphis, who shall see that said result is made a part of the Minutes of the Council of the City of Memphis.

Section 7. Nonconflicting – Conflicting Laws

BE IT FURTHER ORDAINED, That upon adoption of this Home Rule Amendment, all laws constituting the present Charter of the City of Memphis, not in conflict with this amendatory Home Rule Ordinance, be and the same are here continued in full force and effect, and all laws in conflict therewith are hereby repealed.

Section 8. Severability

BE IT FURTHER ORDAINED, that if any clause, section, paragraph, sentence or part of this Ordinance shall be held or declared to be unconstitutional and void, it shall not effect the remaining parts of this ordinance, it being hereby declared to be the legislative intent to have passed the remainder of this ordinance notwithstanding the parts so held to be invalid, if any.

Section 9. Publication

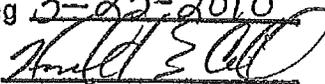
BE IT FURTHER ORDAINED, that this ordinance shall be published immediately after the adoption hereof.

Section 10. Enactment of City Ordinance

BE IT FURTHER ORDAINED, that this ordinance shall take effect from and after the date it shall have passed by the Council signed by the Chairman of the Council, certified and delivered to the office of the Mayor in writing by the Comptroller, and become effective as otherwise provided by law.

HAROLD COLLINS
Chairman of Council

THE FOREGOING ORDINANCE
5345 PASSED
1st Reading 2-9-2010
2nd Reading 2-23-2010
3rd Reading 3-23-2010

Approved: 
Chairman of Council

Date Signed: 04/14/2010

Approved: 
Mayor, City of Memphis

Date Signed: 4/19/2010 19th

I hereby certify that the foregoing is a true copy, and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.

Valerie C. Snyser
Comptroller



RESIDENCY REQUIREMENTS

PM-14-02

Section: 14-00, Employment

POLICY SCOPE

On November 2, 2004, Home Rule Ordinance No. 5063 regarding residency was adopted, and the residency requirements contained within this ordinance became effective on January 3, 2005. This ordinance deleted the prior language of Section 190 of the City Charter and its amendments. The residency policy for the City of Memphis requires that all persons hired on or after January 3, 2005 and employed solely by the City of Memphis or any of its departments, boards, bureaus or commissions, shall be required to live and maintain a residence within the boundaries of the City of Memphis, as now defined or as may be hereafter defined, unless the City Council exempts employees of any division, board, department, or bureau whose duties as employees of such departments, boards, bureaus or commissions require them to perform services for the City outside the territorial limits of Memphis, Tennessee.

POLICY GUIDELINES AND PROCEDURES

Persons who are employed solely by the City of Memphis or any of its departments, boards, bureaus or commissions on or after January 3, 2005, shall be required to live and maintain a residence within the boundaries of the City of Memphis, as now defined or as may be hereafter defined, unless the City Council exempts employees of any division, board, department, or bureau whose duties as employees of such departments, boards, bureaus or commissions require them to perform services for the City outside the territorial limits of Memphis, Tennessee.

Persons who are employed solely by the City of Memphis or any of its departments, boards, bureaus or commissions on or after January 3, 2005 who are not residents of the City shall establish and provide verification of residency within the boundaries of Memphis, Tennessee within six months from the date of employment. Residency within a proposed annexation area or areas otherwise agreed upon between the City and suburban municipalities in Shelby County as annexation reserve areas does not comply with the provisions of this policy. Likewise, residency within an annexed area for which the effective date of annexation has not occurred does not comply with the provisions of this policy. This policy shall likewise apply to employees of Memphis Light, Gas and Water Division.

The City of Memphis reserves the right to request documentation or proof of residency at any time. New hires that are unable to provide proof of residency compliance at the time of initial employment must provide proof of residency compliance within six (6) months of hire.

Required Documentation Accepted for Proof of Residency

At least one of the following:

- valid Tennessee driver's license or state identification
- Tennessee vehicle registration
- current MLGW bill (within 30 days)

AND

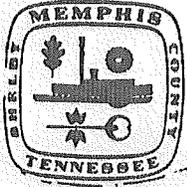
At least two of the following:

- mortgage papers or lease agreements in the employee's or spouse's name
- address section of federal tax return or tax bill for residence
- recent bank or credit union statement in employee's or spouse's name (within 30 days)
- voter's registration card

The adjusted date of employment shall govern the residency requirement for an employee who has a break in service.

It is the responsibility of each employee to maintain a current record of address with both his/her respective Division and the Human Resources Division.

Failure of any officer or employee to comply with the provisions of this policy may be cause for removal or discharge from City employment.



PERSONNEL MANUAL *Policy*

Section 14-00

EMPLOYMENT

Subject

RESIDENCY REQUIREMENTS

All employees of City of Memphis Government regardless of employment classification and/or status who are hired after July 31, 1980, are required to live and maintain a residence within the boundaries of Shelby County. Upon entering the service of City of Memphis Government, a non-resident shall establish Shelby County residency within six months from date of employment. Non-adherence to this policy by an employee shall result in termination.

In compliance with the Public Acts of Tennessee, 1977, Chapter 52, employees of City of Memphis Government hired before July 31, 1980, are not required to live and maintain a residence within the boundaries of Shelby County.

No employee who was hired prior to January 5, 1985, is precluded by the provisions of Charter Section 190, from moving to any position within City Government.

Employees whose date of employment has been administratively adjusted, reference PM-66-01, shall not have that adjusted date of employment govern their required residency. In such cases, the employee's first date of permanent, full-time employment with the City shall determine, according to the provisions of this policy, where the employee may reside.

A given function's operational needs may be such that the ability of employees to report to their work stations in a timely manner is important to providing critical or emergency services. In such cases, a specified response time may be established by the appropriate Division Director.

It is the responsibility of each employee to maintain a current record of address with their Division and Central Records Room, Division of Personnel, City Hall. Falsification of records shall result in disciplinary action, including termination.

REFERENCE CORRESPONDING POLICY:

PM-66-01, SENIORITY RIGHTS AND ADJUSTED DATE OF EMPLOYMENT