

City of Lockport
Local Law No. 5 of the year 2022

A LOCAL LAW to amend Section C-45 of the Lockport City Code – Residency Law

BE IT ENACTED by the Common Council of the City of Lockport, New York as follows:

§ C-45 Residency Law

1. The City of Lockport recognizes that emergency situations arise which require employees of the City of Lockport to be near their place of employment and to assume the continuation of public services to protect the health, safety, and general welfare of the people. The City of Lockport believes that those who are residents of the City of Lockport take a greater interest in promoting the public safety and health in the future of this community, than do nonresidents who reside in areas unaffected by City of Lockport services. The City of Lockport further declares that such a quality is desirable for its employees. The legislative body considers that residency by its employees within the community will help to assure continuation of essential public services. However, the City also recognizes the decline in population in the City, and the need to find the best possible candidate for each position within the City of Lockport. The best candidate may not always be a Resident of the City of Lockport. Therefore, through adoption of this local law, the City of Lockport makes a legislative determination that when reviewing candidates for employment opportunities, qualified City of Lockport resident candidates will be given preference over those that are qualified, but do not live in the City. Further, if there are no qualified City residents who apply for a given position, qualified residents of the County of Niagara shall be given preference over those candidates that do not live in the County. The City of Lockport determines that the public need for the best qualified candidate is sufficient to require that candidates of the City be given preference, if qualified, over nonresidents, but after the effective date of this local law, it is no longer a mandatory requirement to be a resident of the City of Lockport to be employed by the City. However, this local law does NOT affect any residency requirements of enumerated positions within this City Charter, Code, or employment agreements that specifically require residency (ie- elected positions, or any officer positions such as, but not limited to, City Clerk, Deputy City Clerk, Corporation Counsel, Director of Parks, Assessor, Chief Building Inspector, Finance Director, Chief of Police, Fire Chief, etc.). This Local Law specifically eliminates the requirement of the City Engineer to be a resident of the City.

2. Definition. Residency shall mean, for the purpose of this local law, the actual principal domicile of an individual, where he or she (1) normally sleeps (2) maintains usual personal and household effects (3) lists as an address on tax filings; and lists as his or her address for a motor vehicle registration, if any.

3. Residency for new municipal employees that have a residency requirement as described hereinabove. Except as otherwise provided by law, the City of Lockport hereby establishes a residency requirement for all prospective employees that have been specifically enumerated in this Charter, Code, or in Employment contracts, with the

exception of the City Engineer. Any other City employee shall be interviewed and/or hired as described hereinabove, with preference given to City residents who are qualified for the position, then County residents who are qualified for the position, then the most qualified candidate if no City or County residents apply. Every person initially employed by the City of Lockport that is an enumerated position for residency, on or after the effective date of this local law shall, as a qualification of employment, become a resident of the City of Lockport within six months of the date of initial service for the City of Lockport. During the time of service of such an employee whose enumerated position requires residency, said individual shall not cease to be a resident of the City of Lockport.

4. Exceptions. The requirement of residency within the corporate limits of the City does not apply to temporary employees, temporary advisors and consultants, persons having an independent contractor status and current employees of the City of Lockport, who reside outside the corporate limits of the City. Also exempt from residency requirements are members of the Fire Department and Police Department, so long as the Police Department has 200 or more full-time members as set forth in further detail in Section 30(4) of the Police Officers Law. Finally, the City Engineer position is no longer required to have a residency requirement.

5. Residency upon promotion. All employees promoted by the City of Lockport on or after the effective date of this local law, whose position specifically requires residency per the Charter, Code, or employment contract, shall be, or, within six months of such promotion shall become, a resident of the City of Lockport.

6. Notice and posting. A copy of this local law shall be provided to each employee upon his or her initial appointment or promotion. However, a failure to do so shall not affect the application of this local law to any employee appointed or promoted after its effective date. A copy of this law shall be posted in all locations normally used for employee communications.

7. Investigation of residency. Should it be alleged that an employee, whose position requires residency, is not in compliance with Section three or four of this local law as the case may be, the City of Lockport may initiate a hearing by providing the employee with written notice of his or her alleged violation and shall allow the employee seven calendar days in which to respond. If there is a failure to respond or if, in the judgment of the City of Lockport, the response is not sufficient to satisfy the requirements of this local law, the City of Lockport shall set a date to hear the charge of non-residence. The employee shall be sent a notice of the hearing date at least 15 calendar days prior to the hearing. A record of the hearing shall be made. Should an employee whose position requires residency, establish residency to the satisfaction of the City of Lockport prior to the hearing date, it shall result in a cancellation of the hearing authorized by this section.

To conduct the hearing, the City of Lockport may in writing designate an individual who for the purpose of the hearing shall be vested with all powers of the City of Lockport for review and decision. Should the City of Lockport determine that an employee, whose position requires residency, is a nonresident in violation of this local law, the employee

shall be notified in writing that he or she has been deemed to have voluntarily resigned from employment as of the date of the determination. Upon reestablishing residency, an individual having so resigned may apply for reinstatement to his or her former position and shall be reinstated if the position is vacant.

8. Waiver of requirements. In the event that the City of Lockport determines that it is in the best interest of the City of Lockport to do so, the provisions of Section three or four – as it relates to enumerated positions with residency requirements- may be waived with respect to an incumbent or incumbents of a particular title or titles in accordance with the following standards:

a) Lack of applicants. The requirement of residency may be waived in those instances where the City of Lockport has difficulty hiring or promoting the most qualified person because of its residency requirements.

b) Necessity for non-residence. The requirement of residency may be waived in those instances where it is determined that residency is not in the best interest of the municipality.

Such a waiver shall not in any way affect the application of Section three or four of this local law with respect to any other title or titles. **[Added 3-2-2005 by L.L. No. 3-2005]**