

## **ORDINANCE NO. 1, 2009**

### **AN ORDINANCE AMENDING CHAPTER 45 ENTITLED “RESIDENCY REQUIREMENTS,” ARTICLES I AND II, OF THE CODE OF THE CITY OF ONEONTA.**

**BE IT ORDAINED** by the Common Council of the City of Oneonta as follows:

**Section 1.** That §45-2 and §45-7, both entitled “Definitions” shall be DELETED, and a new Article I, entitled “Definitions” shall be ENACTED, which shall read as follows:

As used in this Chapter, the following terms shall have the meanings indicated:

#### **TEN-MILE RADIUS FROM THE CITY OF ONEONTA**

Ten miles in a straight line measured in any direction from the Public Safety Building housing the Oneonta Police Department.

#### **DESIGNATED RESIDENCY REGION**

The area which encompasses those locations which are within such a distance from the City of Oneonta that, while obeying all traffic laws of state and local jurisdiction, the primary work site in the City of Oneonta is reachable within the time limit or mileage limitations required by this act.

#### **DESIGNATED SERVICE AREA**

The geographical area constituting the legislatively authorized contract area for service, including the fire district, water district and sewer service area of the City of Oneonta.

#### **RESIDENCE**

The actual principal domicile of an individual, where he or she normally eats or sleeps and maintains usual personal and household effects.

Existing Articles I and II and the subdivisions and sections thereof shall be renumbered accordingly.

**Section 2.** That former Article I, entitled “Police” shall be renamed “Police Officers”.

**Section 3.** That former Article II, entitled “Employees” shall be renamed “Other Emergency Service Personnel”.

**Section 4.** That Subdivision A of §45-3 entitled “Residency for New Members” is hereby AMENDED to read as follows:

- A. The Common Council of the City of Oneonta hereby establishes a residency requirement for all prospective sworn members of the Oneonta Police Department. Every person employed as a sworn member of the Oneonta Police Department by the

City of Oneonta on or after the effective date of this article shall be a resident of the City of Oneonta, New York, or shall reside within 10 miles therefrom, or shall become such a resident within six months of the date of the completion of that person's probationary period. During the time of service of such members of the Police Department, no individual shall cease to be a resident of the City of Oneonta or within a ten-mile radius therefrom.

**Section 5.** That §45-4 and §45-13 shall be DELETED, and a new Article III, entitled "Termination of Service" shall be ENACTED, which shall read as follows:

- A. Should it be alleged that an employee who is subject to the provisions of this Chapter no longer resides within the designated residency region, the Personnel Director or, in the alternative, any other city employee or city official who is designated by the Mayor or Common Council of the City of Oneonta, upon becoming aware of the allegation shall provide the employee written notice of his alleged violation and shall allow the employee seven calendar days in which to respond. Regardless of whether or not a response is received, a hearing date shall be determined to examine the charge of nonresidency. The employee shall be sent a notice of the hearing date 15 days prior to the hearing. Upon determination by the Common Council of the City of Oneonta or by a duly designated hearing officer conducting the hearing that the employee is a nonresident of the City of Oneonta or of the designated residency region in violation of this Chapter, the employee will be deemed to be voluntarily resigned as of the date of that determination.

**Section 6.** That §45-5 and §45-12 shall be DELETED and a new Article IV entitled "Extraordinary Effort in Recruitment" shall be ENACTED, which shall read as follows:

- A. From time to time, the City of Oneonta may find it impracticable to recruit new employees with certain specialized skills from within the designated residency region. After a recruitment effort which is deemed both extensive and exhaustive by legislative resolution, the Common Council may waive the residency requirement by resolution of a 3/4 majority of the Council. Such waiver shall not violate the legislative determination that the designated residency of employees in the departments stated in this Chapter remains essential to the protection of the health, safety and general welfare of the people of the City of Oneonta.
- B. Such a waiver shall not in any way affect the application of this Chapter upon any other person or position.

**Section 7.** This ordinance shall take effect immediately