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ORDINANCE AMENDMENT TO SECTION 2-221 OF THE CODE OF ORDINANCES OF THE CITY OF NEW HAVEN CONCERNING RESIDENCY REQUIREMENT EXCEPTIONS FOR NEW APPOINTMENTS TO COORDINATOR AND DEPARTMENT HEAD POSITIONS

..Body

WHEREAS, Article II, Section 12 of the Charter of the City of New Haven establishes elector and residency requirements for certain appointed officials in order to promote accountability, accessibility, and familiarity with the needs of City residents; and

WHEREAS, the Board of Alders recognizes that residency within the City promotes responsiveness to local concerns, strengthens public confidence in municipal government, and supports the Charter's purpose of ensuring local accountability; and

WHEREAS, the Board of Alders further recognizes that, in limited circumstances, strict application of such residency requirements for newly appointed coordinators and department heads may significantly affect the City's ability to recruit or retain highly qualified individuals necessary to serve the public interest; and

WHEREAS, the Board of Alders finds that any exception process should be narrowly tailored, transparent, based on documented review, and subject to written findings and approval by the Board of Alders; and

WHEREAS, the Board of Alders by this amendment preserves residency requirements as the general rule while establishing a limited process for case-specific exceptions in appropriate circumstances consistent with the Charter and the public interest.

NOW, THEREFORE, BE IT ORDAINED by the Board of Alders of the City of New Haven that Section 2-221 of the Code of Ordinances be amended as follows:

DIVISION 1. GENERALLY

Section 2-221

(a) Incumbent Coordinator Defined. As set forth in Article III, Sec. 2.A (2) of the Charter, the term "Coordinator" shall mean one of up to four employees of the City appointed by the Mayor with professional qualifications in such fields as, but not limited to, community development, human services, public administration and public finance, to aid the Mayor in the carrying out of said Mayor's duties as chief executive and administrative officer of the City. The professional qualifications of the Coordinators are prepared in accordance with nationally accepted professional standards and best practices in the applicable field and are to be updated prior to the appointment of such Coordinator. As used in this section, "Incumbent Coordinator" shall be defined as an individual who has served in the Coordinator role for twelve (12) months following confirmation by a vote of the Board of Alders or as deemed to be approved in accordance with the Charter ("Effective Date").

(b) General Rule. Each Incumbent Coordinator shall be an Elector of the City within six months following the Effective Date of his or her appointment; or may reside outside of the corporate boundaries of the City if he or she resides in a residence owned by the City of New Haven.

(c) Legislative Finding. The Elector requirement of the Charter and the general accompanying requirement of residency within the City recognizes the notion that employees have a greater interest in, commitment to and more involvement with the government which employs them if the employee lives within the boundaries of the City. It is equally understood that during a term of appointment certain circumstances or hardships may arise that would necessitate modification or relaxation of the Elector and residency requirements as an exception to the general rule established by the Charter, in accordance with clearly delineated criteria.

(d) Exception. An Incumbent Coordinator who has served in office for a period of time in excess of twelve (12) months following the Effective Date of his or her appointment and is in compliance with the Elector

requirement of the Charter may qualify for an exception to the Elector requirement of the Charter. In order to do so the Incumbent Coordinator shall be required to demonstrate a critical need or extraordinary hardship due to exceptional circumstances, beyond the control of the Incumbent Coordinator.

(e) Application. Either the Mayor or the Incumbent Coordinator may submit an application, accompanied by an affidavit, to the Personnel Director requesting an exception to the Elector requirement. The Personnel Director is required to review the application and the affidavit setting forth the following information and any other information requested by the Personnel Director: (1) a description of the critical need or extraordinary hardship that exists; (2) that the need or hardship necessitates residency outside of the City; and (3) that granting the exception remains in the best interests of the City.

(f) Factors for Consideration. Among the factors to be considered by the Personnel Director are (1) economic hardship including consideration of the cost of residency including the potential for economic loss associated with the sale of a residence owned prior to appointment and purchase of a replacement residence, the cost of maintaining multiple residences for the purpose of complying with the requirements of the Charter; (2) the presence of school age children in the household; (3) necessity of a member of the Incumbent Coordinator's household to continue to reside in the residence owned prior to appointment; (4) health-related or medical reasons; and/or (5) any other factor that creates a substantial hardship for the Incumbent Coordinator. In the event the Mayor is the applicant, the Mayor may include information relevant to the consideration of the application, including but not limited to the special skills, education or experience possessed by the Incumbent Coordinator, the Incumbent Coordinator's proven ability to do perform the functions of the office and other factors the Mayor may believe are supportive of the application.

(g) Review and action by the Personnel Director. The Personnel Director shall review the application and affidavit and may request additional documentation in his or her discretion. Upon approval by the Personnel Director, the application shall be provided to the Mayor. If the Mayor is not the applicant, the Mayor may add any additional, relevant information for consideration by the Board of Alders.

(h) Transmittal by the Mayor to the Board of Alders. Upon approval by the Mayor, the application and other relevant materials provided shall be submitted to the Board of Alders, subject to review by a committee thereof as assigned by the President.

(1) Action by the Board of Alders. The application is subject to final approval by a majority vote of the entire membership of the Board of Alders, eligible to vote.

(2) Continuing Residency Requirement. Notwithstanding the foregoing, approval of the exception is subject to the continuing requirement for the Incumbent Coordinator to reside within ~~fifty miles from New Haven city limits or boundaries and within~~ the State of Connecticut.

(i) Annual Review. The exception, if granted, shall be subject to an annual review by the Personnel Director to ensure that conditions have not changed. Following the review, the Director shall file a report and make recommendations to the Mayor and the Board of Alders regarding any further action pertaining to the exception. In the event there is reason to revoke the exception, the revocation shall be subject to approval by a majority vote of the members of the Board of Alders, present and voting.

~~(j) New Appointment Exceptions. Notwithstanding the residency and elector requirements otherwise applicable under Article II, Section 12 of the Charter, the Board of Alders may, upon written recommendation of the Mayor, grant a case-specific exception to such requirements for a specific individual newly appointed to a coordinator or department head position.~~

~~Any request for such exception shall be submitted within the period otherwise permitted for compliance under the Charter.~~

(k) Request and Review for New Appointment Exceptions. The Mayor may submit to the Personnel Director a request for an exception pursuant to subsection (j) on behalf of a specific individual newly appointed to a coordinator or department head position. Such submission shall identify the appointee and the position and may include such information as is reasonably necessary to support the request.

The Personnel Director shall review the submission and may require additional information in his or her discretion. Upon completion of such review, the Personnel Director shall certify in writing to the Mayor whether the request satisfies the criteria for consideration, including, but not limited to, the following factors, as applicable:

- (1) whether the appointee possesses qualifications, training, experience, and demonstrated ability to perform the functions of the office;
- (2) whether the City conducted a reasonable and documented recruitment process, including public posting and active outreach appropriate to the position;
- (3) whether comparably qualified resident candidates were not reasonably available through the recruitment process;
- (4) whether strict application of the residency requirement would significantly affect the City's ability to recruit or retain a qualified candidate necessary to serve the public interest; and/or
- (5) whether the appointee has demonstrated that compliance with the residency requirement would impose a substantial hardship, including but not limited to:
 - (a) economic hardship, including consideration of the cost of residency, the potential for economic loss associated with the sale of a residence owned prior to appointment, relocation expenses, and the cost of maintaining multiple residences for the purpose of complying with the requirements of the Charter;
 - (b) the presence of school age children in the household;
 - (c) the necessity of a member of the appointee's household to continue to reside in a residence owned prior to appointment;
 - (d) health-related or medical reasons; and
 - (e) any other factor that creates a substantial hardship for the appointee.

Upon receipt of the Personnel Director's written certification, the Mayor may submit a written recommendation and supporting documentation to the Board of Alders for consideration.

(l) Conditions of New Appointment Exceptions. Any exception granted pursuant to subsection (j):

- (1) shall apply only to the specific individual for whom the exception is granted;
- (2) shall apply only to the appointment for which the exception is granted;
- (3) shall not be construed to create a continuing exemption for any successor appointee or similarly situated position;
- (4) shall be subject to any conditions or limitations imposed by the Board of Alders;
- (5) shall be subject to the continuing requirement that the individual for whom the exception is granted reside within the State of Connecticut; and
- (6) shall not diminish the authority of the Board of Alders under the Charter, ordinances, or applicable law.

(m) No Precedent. The granting of an exception pursuant to this section shall not be deemed to establish a precedent, right, or entitlement to the granting of any future exception. In any legal challenge to the granting of an exception pursuant to this ordinance, the judgment of the Board of Alders in granting the exception shall be presumed to be reasonable and proper and shall not be set aside, vacated or invalidated absent clear and convincing evidence of mistake, fraud or the Board's lack of legal authority.

(n) Severability. If any provision of this section or its application to any person or circumstance is held invalid, such invalidity shall not affect the remaining provisions or applications of this section.

Secs. 2-222—2-240. Reserved.

This ordinance shall take effect upon publication.