

CITIES, TOWNS AND VILLAGES:
CITY OFFICERS:

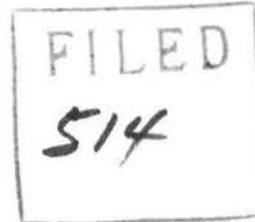
There is no statutory requirement that appointed police officers in third

class cities governed by provisions of Chapter 77, RSMo 1959, be residents of such city, but such cities may by ordinance require residence or other qualifications in addition to those prescribed by statute. An existing ordinance requiring such residence is not rendered invalid or ineffective by a statutory amendment permitting the employment of nonresident police officers.

OPINION NO. 514

November 25, 1969

Honorable Ronald M. Belt
Representative - 96th District
1015 North Jackson
Macon, Missouri 63552



Dear Mr. Belt:

This official opinion is issued in answer to your recent letter in which you ask whether a city of the third class governed by provisions of Chapter 77, RSMo 1959, may employ non-residents as policemen, when the city ordinances require that all persons appointed to office shall have been residents of the city for a specified time.

Section 77.380, Senate Bill No. 15, Seventy-Fifth General Assembly, applies to cities of the third class and provides in part as follows:

"All officers elected or appointed to offices under the city government shall be qualified voters under the laws and constitution of this state and, except the city sextons, the city attorney in cities of less than three thousand inhabitants, appointed police officers, and other employees having only ministerial duties, must be residents of the city. . . ."
[Emphasis ours]

Section 77.380 was first amended in 1967. Laws 1967, p.159. Prior to such amendment only "city sextons" were excluded from the residence requirements. The 1969 amendment added city attorneys in cities of less than three thousand population to those exempt from the residency requirements.

We understand, however, that a particular city has an ordinance which provides that "every person elected or appointed to any office under the city government . . . shall have been a resident of the city . . . for one year next preceeding his election or appointment." We assume that this ordinance was in force at the time of the 1967 statutory amendment to Section 77.380 when "appointed police officer" were first exempted from the residency requirement.

The definitions of the words "officer" and "office" show some variation but it would appear that a city policeman is an "officer" who holds an "office" as those terms are used in Section 77.380, both in its present form and in the form in which it existed prior to 1967. Such a construction is supported both by the exclusion of police officers in the 1967 amendment, and by the exclusion of only the "city sextons" in the statute prior to 1967.

It is also reasonable to assume that the terms "officer" and "office" in an ordinance defining the qualifications of city officers are used in the same sense that they are used in the statutes prescribing qualifications. The tenor of the ordinance in question, then, is to require that police officers have been residents of the city for one year.

The statute prescribes minimum qualifications, but we see no reason why the city may not prescribe additional qualifications of age, residence or education, by ordinance. The ordinance in question goes beyond the statute in its present or its earlier form in requiring not only that city officers be residents, but that they have been residents for a specific period. The specification of additional qualifications is one the city has the authority to make.

The provisions of Section 77.380, Senate Bill No. 15, Seventy-Fifth General Assembly, merely permit the employment of nonresident policemen. The section does not preclude the imposition of additional qualifications, nor does it operate to render an existing ordinance which prescribes additional qualifications ineffective.

If the city proposes to take advantage of the amendment of Section 77.380 by employing nonresident policemen, it should amend or repeal the ordinance prescribing qualifications for persons appointed to office.

CONCLUSION

There is no statutory requirement that appointed police officers in third class cities governed by provisions of Chapter 77, RSMo, be residents of such city, but such cities may by ordinance require residence or other qualifications in addition to

those prescribed by statute. An existing ordinance requiring such residence is not rendered invalid or ineffective by a statutory amendment permitting the employment of nonresident police officers.

The foregoing opinion, which I hereby approve, was prepared by my Special Assistant, Charles B. Blackmar.

Very truly yours,

A handwritten signature in cursive script, reading "John C. Danforth". The signature is written in black ink and is positioned above the typed name.

JOHN C. DANFORTH
Attorney General