

§ 12-119 Definitions.

As used in sections 12-120 and 12-121 of this subchapter:

- a. The word "residence" means domicile and the word "resident" means domiciliary.
- b. The term "city service" means service as an employee of the city or of any agency thereof other than service in a position which is exempted from municipal residence requirements pursuant to the public officers law or any other state law.

§ 12-120 Residency requirements.

- a. Except as otherwise provided in section 12-121, any person who enters city service on or after September first nineteen hundred eighty-six
 - (i) shall be a resident of the city on the date that he or she enters city service or shall establish city residence within ninety days after such date and
 - (ii) shall thereafter maintain city residence as a condition of employment.

Failure to establish or maintain city residence as required by this section shall constitute a forfeiture of employment; provided, however, that prior to dismissal for failure to establish or maintain city residence an employee shall be given notice of and the opportunity to contest the charge that his or her residence is outside the city.

- b. Notwithstanding subdivision a of this section, employees who have completed two years of city service shall be deemed to be in compliance with the residency requirements of this section if they are residents of Nassau, Westchester, Suffolk, Orange, Rockland or Putnam county; provided, however, that
 - (i) the mayor may require deputy mayors, heads of mayoral agencies as defined in section 385 of the charter, deputy commissioners, assistant commissioners and general counsels of such agencies to have completed more than two years of city service to be in compliance with the residency requirements of this section,
 - (ii) the speaker of the council may require the council's chief of staff, deputy chiefs of staff, general counsel and division directors to have completed more than two years of city service to be in compliance with the residency requirements of this section,
 - (iii) the comptroller may require the chief of staff, deputy comptrollers, assistant comptrollers and general counsel to have completed more than two years of city service to be in compliance with the residency requirements of this section,
 - (iv) the borough presidents may require their chiefs of staff, deputy borough presidents and general counsels to have completed more than two years of city service to be in compliance with the residency requirements of this section, and

- (v) the public advocate may require the chief of staff, deputy advocates and general counsel to have completed more than two years of city service to be in compliance with the residency requirements of this section.

§ 12-121 Exceptions to residence requirements.

- a. The commissioner of citywide administrative services on his or her own initiative or upon application of the head of an agency may certify that there is difficulty in the recruitment of personnel for a position and that to restrict recruitment for such position to persons who meet the residency requirements of section 12-120 based on their residence or their willingness to establish residence consistent with such requirements would not be in the public interest. Persons appointed to positions so certified by the commissioner shall not be required to establish or maintain residence consistent with the requirements of such section as a condition of employment while in service in that position. Each agency head may make application to the commissioner, in such form as the commissioner shall prescribe, for the certification of positions within the agency head's jurisdiction. The commissioner may certify such positions subject to such limitations and conditions as the commissioner may deem appropriate. Notwithstanding the foregoing provisions, positions in the city council may be so certified by the speaker of the city council. Copies of all certifications of the commissioner and the speaker shall be filed with the city clerk and shall be subject to annual review by the commissioner and speaker.
- b. Residence in the city or Nassau, Westchester, Suffolk, Orange, Rockland or Putnam county shall not be required as a condition of employment for:
 - (1) persons appointed to the position of chaplain; or
 - (2) employees whose regular work site is outside the city; or
 - (3) employees who have performed functions at a regular work site outside the city, where the city has reduced or terminated, or is in the process of reducing or terminating, the direct performance by city employees of such functions at such site, and the city seeks to transfer, reassign, or appoint such employees to positions located within the city. This paragraph shall apply only where the commissioner of citywide administrative services finds that it is in the public interest to waive the residence requirement for reasons including, but not limited to, facilitating the operations of the affected agency or agencies or furthering the interests of employee relations.
- c. City residence shall not be required as a condition of employment for campus peace officers level I, level II and level III, as defined by subdivision twenty-seven of section 2.10 of the criminal procedure law, employed by the city university of New York before the effective date of this subdivision.