

Request for City Council Action

Date: June 30, 2015

<p>Agenda Section: General Business</p> <p>No. 6</p>	<p>Originating Department:</p> <p>City Manager</p>
<p>Item: Ordinance Amending Title One of the Carbondale Revised Code as it Relates to Residency Requirement for City Employees</p> <p>No. 6.2</p>	<p>Approved:</p>

HISTORY

In March 1986, the City Council discussed the creation of a residency boundary for employees to reside within. In addition, the Council expressed support to require employees in certain high level positions (executive) to live within Carbondale’s corporate limits. The proposal created a non-executive employee boundary based on a nine (9) mile radius from the intersection of Main Street and Illinois Avenue. From the radius, a list sections within townships was created. There were exemptions where section lines serving as the boundary split communities outside of Carbondale. For example, Pomona, Colp and Hurst-Bush were excluded from the residency boundary while all of Crainville was included. The Council defined executive positions as division and department head level positions in Pay Grade 11 & 12 based on the FY87 Pay Plan, plus the City Manager and the City Clerk. In 1986, a total of 22 positions were determined to be executive. Of the 22, seven lived outside the City of Carbondale. The new residency boundary requirements applied to new hires only and exemptions were given for existing employees. The Council further stated it would give preference to persons who reside within the City when filling vacant positions. In 2014, the last employee retired who was grandfathered from the 9-mile residency requirement.

In April 1999, the City adopted a new Classification Plan for employees reducing the number of pay grades from 12 to 9, with the positions in grade 12 becoming grade 9 and grades 10 and 11 becoming 8. As a result of this change, the executive personnel were classified as grades 8 and 9. Under the new Classification Plan, Police Lieutenants and Assistant Fire Chiefs were considered executive personnel requiring them to reside within the City limits within 6 months of being promoted because of the promotional nature of these two positions. These were the only two Non-Bargaining Unit positions which must be promoted from eligibility lists for which the only eligible candidates are current Police Sergeants and Fire Captains. It is decided a requirement of having to live within the City limits would very likely discourage Police Sergeants and Fire Captains from participating in the promotional process. Based on this reasoning, the City Code was amended to include an exemption to the residency requirement for Police Lieutenants and Assistant Fire Chiefs.

<p>Engineering Approval Obtained</p>	<p>Finance Approval Obtained</p>	<p>Legal Approval Obtained</p>	<p>Approval Obtained</p>	<p>Manager's Approval Obtained</p>
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Council Action: Motion by _____ 2nd by _____ to _____

In February 2000, a reorganization of the Police Department was initiated by the City Manager and the Police Chief. The existing structure consisted of a Police Chief, 4 Lieutenants, and 11 Sergeants. The new structure consisted of a Police Chief, 2 Deputy Chiefs of Police, 3 Lieutenants and 10 Sergeants. The objectives of the reorganization were to provide consistency in the supervisory structure, to provide greater efficiency and improved communications by the grouping of related functions under a single division, and to place more supervision in the field operations by allowing the Sergeants more time on the street rather than performing administrative duties in the station. The reorganization again created Classification Plan issues similar to 1999. The newly created Deputy Chief of Police positions became a grade 8 requiring those assuming the positions to move inside the City limits. This requirement was believed to cause a reluctance of the Police Officers, Police Sergeants, and Police Lieutenants to apply for the position of Deputy Chief of Police, a position which is filled by application versus promotion. Based on this reasoning, the City Code was amended to include an exemption to the residency requirement for the position of Deputy Chief of Police.

In 2005, the City experienced a significant turnover in management personnel due to retirements and it is believed the trend will continue for at least 2 years. As a result, the City Manager proposes adding an 8th department head (Administrative Services Director) to oversee the divisions of Human Resources, City Clerk and Civic Center which currently reported directly to the Manager. The City Code states that all “persons employed on or after May 1, 1986, in executive personnel grades and all employees subsequently promoted to or within executive personnel grades, shall be required to establish their residence within the corporate limits within 6 months of the date of employment and remain residents within the corporate limits as a condition of employment...” Current executive personnel who were employed in an executive position on May 1, 1986 are exempt from the residency requirement, unless they are promoted from a grade 8 division head level position to a grade 9 department head position. Since the change in 1986 that established this rule, these employees have been exempt for over 19 years. The Council decides to amend the City Code to allow those current residency requirement exempt executive personnel (persons hired before 1986) to be promoted within the executive personnel grades and maintain their exemption. The result is the promotion of an exempt executive person to the position of Administrative Services Director. The person filling this position, to which the exemption applied, has since retired therefore voiding the future use of this exemption.

EFFECT of PREVIOUS CHANGES to CITY CODE

It is apparent from the changes noted above that since 1986 when the first residency boundary was created, if/when a need arose to allow people to assume positions (either through promotions or appointment) the City Code was modified if the employees would have otherwise been ineligible or had to sell their home and move within the residency boundary in order to assume a new position. .

Below is a list of executive personnel by pay grade and position who are required to live within the City limits. Exemptions are also noted.

Pay Grade 9 City Attorney, Public Works Director, Finance Director, Police Chief, Fire Chief, Administrative Services Director (Human Resources), Development Services Director (Building, Planning/Zoning, Code Enforcement)

Pay Grade 8 Accounting Manager, Maintenance & Environmental Services Manager (PW), Information Systems Manager (IT), Water Operations Manager

Pay Grade 8 Exemptions

Deputy Police Chief (2), Police Lieutenant (4), Assistant Fire Chief (3)

The City Manager position (unclassified pay grade) and the City Clerk (pay grade 6) are also required to reside within the City limits according to City Code.

The result of the many exemptions noted has left 11 out of 20 total people currently in pay grades 8 and 9 (executive personnel) without an exemption specific for their position.

With the current Police Chief position being filled on an interim capacity and the recent announcement of the retirement of the Fire Chief, two key department head positions must be filled. As in 2005, it is anticipated that the City will begin experiencing a significant turnover in executive and management personnel due to retirements during the next 18 months. The majority of employees who are in management positions, but outside of pay grades 8 and 9 are the employment pool for filling the upper management and department head positions, live outside the City limits but within the 9-mile residency boundary.

If it is the City Council's desire to promote from within, then the City and its employees face two options. First, the City can either create new exemptions for certain positions as has been done in the past or modify the residency requirement. Second, if the City does neither of these, employees who desire to move up in management will be faced with selling their homes and moving within the City limits.

In the last 5 years, the City limits residency requirement has affected existing employees currently living outside the City limits but within the 9-mile residency boundary. These employees, who have applied for positions within pay grades 8 and 9, have faced the dilemma of either moving their families or renting an apartment to comply with the City limit residency requirement. In all cases, the employees have chosen not to take the promotion due to the residency requirement.

COMPARISON to OTHER COMMUNITIES

A survey of municipalities throughout Illinois found many different residency requirements and no continuity among city populations, forms of government, etc. Many communities stated their requirements have been amended many times, some to the point of making it almost impossible to enforce. Examples include:

- All employees live within the City limits
- All employees live within the City limits, except positions requiring a technical degree (finance, legal, engineering, etc.)
- All employees live within the City limits or within any adjacent township in which the City limits cuts through
- All employees live within the City's zoning jurisdiction
- Certain pay grades live within varying residency requirements (similar to Carbondale)
- Residency boundaries ranging from 0 to 30 miles
- All employees live within the County in which the City is incorporated. If applied to Carbondale, this would include all of Jackson and Williamson Counties. If applied to Centralia, this would include 4 counties.
- No residency requirement

The comparison did find that as the population density increases in areas like metro East St. Louis and Chicago, communities had completely eliminated any residency requirement.

It is becoming more and more apparent, that employees and their families are willing to forego promotions or advancement opportunities in lieu of moving from an established residence if it is within a reasonable distance to the employer. Based on this, if the City Council is committed to promoting from within, it will have to amend the City Code. The City currently employs approximately 270 people. Of this number, 20 (not including the City Manager and the City Clerk) or 7.4%, are required to live within the City limits. Once you figure in the employees who are afforded exemptions, only 11 or 4% are required to live within the City limits. In other words 96% of the City employees have the option of living outside the City of Carbondale but within the 9-mile residency requirement.

OPTIONS

A number of options were reviewed that include:

1. Require all new employees to live within the City limits. This is not an option as the police and fire unions' contract allow for residency within the 9-mile boundary. This matter was the subject of a legal case in which the unions wanted to extend the boundary to greater than 9 miles. The result was a ruling in favor of the City to retain the 9-mile boundary.
2. Create more exemptions for more classes of executive employees, similar to the 1999 and 2005 Council actions. This only serves to further alienate the few remaining employees who are bound by the City limits requirement. This could also lead to a discrimination law suit brought by those remaining non exempted employees.
3. Eliminate the City limits requirement for executive employees. In other words, all employees have the same rights and must live within the 9-mile boundary. The argument against this is "there will be a large number of employees leave the City limits." As indicated above, currently only 10 employees (3.7%) are bound by this requirement therefore there cannot be a large number of employees leave the City.
4. Eliminate all residency requirements. Due to the previous legal decision in favor of the City and the 9-mile residency boundary, this is not a viable option. Each time the police and fire union contracts are up for renegotiation, they try to argue extending the boundary; this year the argument was from 9 miles to 20 miles.

RECOMMENDATION:

After conducting a review of the history presented above and the significantly small number of employees affected by the current City limit residency requirement, it is recommended the City Council choose Option 3 above and adopt an Ordinance eliminating the City limits requirement for executive employees in pay grades 8 and 9, the City Manager and the City Clerk.

CITY OF CARBONDALE, ILLINOIS

ORDINANCE NO. 2015- ____

**AN ORDINANCE AMENDING TITLE ONE OF THE CARBONDALE REVISED
CODE AS IT RELATES TO RESIDENCY REQUIREMENT FOR CITY EMPLOYEES**

**ADOPTED BY THE CITY COUNCIL
OF THE CITY OF CARBONDALE, ILLINOIS
THE 30TH DAY OF JUNE, 2015**

**Published in pamphlet form by authority of the City Council of the City of Carbondale,
Jackson County, Illinois, this 1st day of July, 2015.**

CERTIFICATE OF PUBLICATION

**I, Jennifer R. Sorrell, the duly qualified City Clerk of the City of Carbondale,
Illinois, and the official custodian of the records of said City, do hereby certify that this
ordinance was published in pamphlet form by authority of the City Council on the 1st day
of July, 2015.**

Jennifer R. Sorrell, City Clerk

ORDINANCE NO. 2015-____

AN ORDINANCE AMENDING TITLE ONE OF THE CARBONDALE REVISED CODE AS IT RELATES TO RESIDENCY REQUIREMENT FOR CITY EMPLOYEES

WHEREAS, the City of Carbondale, Illinois, is a home rule unit of local government under the Illinois Constitution, 1970, Article VII, Section 6; and

WHEREAS, pursuant to Article VII, Section 6(a), of the Illinois Constitution, 1970, the City of Carbondale may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; and

WHEREAS, the City Code of the City of Carbondale, Illinois, under Title 1 outlines residency requirements for City employees; and

WHEREAS, the City Council of the City of Carbondale finds that it is in the best interest of the City of Carbondale to amend the residency requirement established in Section 16 of Chapter 4 of Title 1 of the Carbondale Revised Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CARBONDALE AS FOLLOWS:

SECTION 1. That Title 1, Chapter 4, Section 16 of the Carbondale Revised Code is hereby amended as shown in Exhibit “A” attached hereto and made a part hereof.

SECTION 2. All of the remaining sections of Title 1 of the Carbondale Revised Code shall remain in full force and effect.

SECTION 3. That all ordinances and parts thereof in conflict herewith are expressly repealed and are of no other force and effect.

SECTION 4. That repeal of any ordinance by this Ordinance shall not affect any rights accrued or liability incurred under said repealed ordinance to the effective date hereof. The

provisions of this Ordinance insofar as they are the same or substantially the same as those of any prior ordinance, shall be construed as a continuation of said prior ordinances.

SECTION 5. That it is the intention of the City Council of the City of Carbondale that this Ordinance and every provision thereof shall be considered separable, and the invalidity of any section, clause, or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

SECTION 6. That the City Council of the City of Carbondale finds that the subject matter of this Ordinance pertains to the government and affairs of the City of Carbondale and is passed pursuant to authorities granted it by State statutes and the Home Rule powers of the City of Carbondale pursuant to the provisions of Article VII, Section 6(a) of the Illinois Constitution.

SECTION 7. That this Ordinance shall take effect upon its passage, approval, recording, and publication in pamphlet form in accordance with law.

APPROVED: _____
John M. Henry, Mayor

ATTEST: _____
Jennifer R. Sorrell, City Clerk

APPROVED AS TO LEGALITY AND FORM:

P. Michael Kimmel, City Attorney

1-4-16: RESIDENCY REQUIREMENT FOR CITY EMPLOYEES:

A. Definitions: For purposes of this Section, the following definitions shall apply:

CORPORATE LIMITS: The original Town of Carbondale and those areas that have been annexed into the City of Carbondale as of May 1, 1986, and those areas which are to be annexed into the City of Carbondale in the future as of the effective date of the annexation ordinance.

EXECUTIVE PERSONNEL: All City employees occupying positions classified in pay ranges 8 or 9, the City Manager, and the City Clerk.

NONEXECUTIVE PERSONNEL: All other City employees, not designated as Executive Personnel.

RESIDENCY BOUNDARY: Only the following listed land sections shall be deemed to be within the residency boundary:

JACKSON COUNTY, ILLINOIS

Township 8 South, Range 1 West (DeSoto Township) – All sections (1 through 36);

Township 8 South, Range 2 West (Somerset Township) – Sections 11, 12, 13, 14, 15, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 34, 35, and 36;

Township 9 South, Range 1 West (Carbondale Township) – All sections (1 through 36);

Township 9 South, Range 2 West (Murphysboro Township) – All sections (1 through 36);

Township 10 South, Range 1 West (Makanda Township) – All sections (1 through 36);

Township 10 South, Range 2 West (Pamona Township) – Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 22, 23, 24, 25, 26, 27 and 36;

WILLIAMSON COUNTY, ILLINOIS

Township 8 South, Range 1 East (Blairsville Township) – Sections 19, 20, 21, 28, 29, 30, 31, 32, 33 and 34;

Township 9 South, Range 1 East (Carterville Township) – Sections 2, 3, 4, 5, 6, 7,

8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35;

Township 10 South, Range 1 East (Grassy Township) – Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 29 and 30.
(Ord. 86-32; Ord. 99-15)

B. Residency Requirements for Executive and Nonexecutive Personnel:

- ~~1. Persons employed on and after May 1, 1986, in executive personnel grades and all employees subsequently promoted to executive personnel grades, shall be required to establish their residence within the corporate limits within six (6) months of the date of employment and remain residents within the corporate limits as a condition of employment. The city manager shall have the authority to grant one extension of a maximum of six (6) months for compliance with this requirement. For purposes of this section, the date of employment shall be the first date the employee actually performs services for which he/she is entitled to compensation at the rate paid for the executive personnel position for which he/she has been hired or to which he/she has been promoted. The period a person is appointed to an executive position on an acting basis will not be applied towards the six (6) month residency compliance period. (Ord. 2005-51)~~
- ~~2. Employees hired prior to May 1, 1986, who are classified as executive personnel on May 1, 1986, and who reside outside the corporate limits are not required to establish their residence within the corporate limits. However, once residency within the corporate limits is established, it must be maintained as a condition of employment.~~
- ~~3. Employees hired prior to May 1, 1986, who are classified as executive personnel on May 1, 1986, and who reside within the corporate limits are required to maintain their residence within the corporate limits as a condition of employment.~~
- ~~4. Employees hired prior to May 1, 1986, who are classified as executive personnel on May 1, 1986, and who reside outside the corporate limits but within the residency boundary as described in subsection A of this section must maintain their residence within the residency boundary as a condition of employment.~~
- ~~5. Employees hired prior to May 1, 1986, who are classified as executive personnel on May 1, 1986, and who reside outside the residency boundary as described in subsection A of this section are not required to establish residency within the residency boundary. However, once residency within the residency boundary is established, it must be maintained as a condition of employment.~~

C. ~~Residency Requirements for Nonexecutive Personnel:~~

- ~~1. Except as provided in subsection B of this section, all persons employed by the city and who live within the corporate limits on or after May 1, 1986, must maintain their residence within the residency boundary as described in subsection A of this section as a~~

~~condition of employment.~~

- ~~21. Employees hired on or after May 1, 1986, in Persons employed by the City in executive and nonexecutive positions shall be required to establish their residence within the residency boundary as described in subsection A of this section within six (6) months of the date of employment and remain residents of that residency boundary as a condition of employment. The city manager shall have the authority to grant one extension of a maximum of six (6) months for compliance with this requirement. For purposes of this section, the date of employment shall be the first date the employee actually performs services for which he is entitled to compensation.~~

DC. Exemptions:

- ~~1. All persons employed by the city on November 1, 1979, are exempt from all requirements of this section, unless they are classified as executive personnel on or after May 1, 1986.~~
21. The city manager shall have the authority to exempt from the requirement of this section persons employed pursuant to federally funded or state funded labor intensive programs that prohibit residency requirements for employees in the program.
32. The city manager shall have the authority to exempt from the requirements of this section persons employed to work in programs that are designated at a minimum to serve all the residents of Jackson County; provided, however, that: a) the employee's regular work site is not located within the residency boundary; b) the employee lives in the same area as the work site; and c) the employee's position is funded entirely by federal or state grant funds.
43. Any employee who lives on city owned lands shall be deemed to be in compliance with the requirements of this section.
54. The city manager may grant a waiver of any of the provisions of this section for a maximum of three (3) months for reasons of hardships of an employee. (Ord. 86-32)
- ~~6. Dut to the promotional nature of the positions which are filled from an eligibility list prepared by the board of police and fire commissioners, employees promoted to the positions of police lieutenant or assistant fire chief are exempt from subsection B1 of this section. (Ord. 99-15)~~
- ~~7. Promotions to the position of deputy police chief shall be exempt from subsection B1 of this section. (Ord. 2000-05)~~

ED. Qualifications for Employment:

1. All persons who otherwise qualify for employment are eligible to apply and be considered for a position without regard to residency; provided, however, that all persons

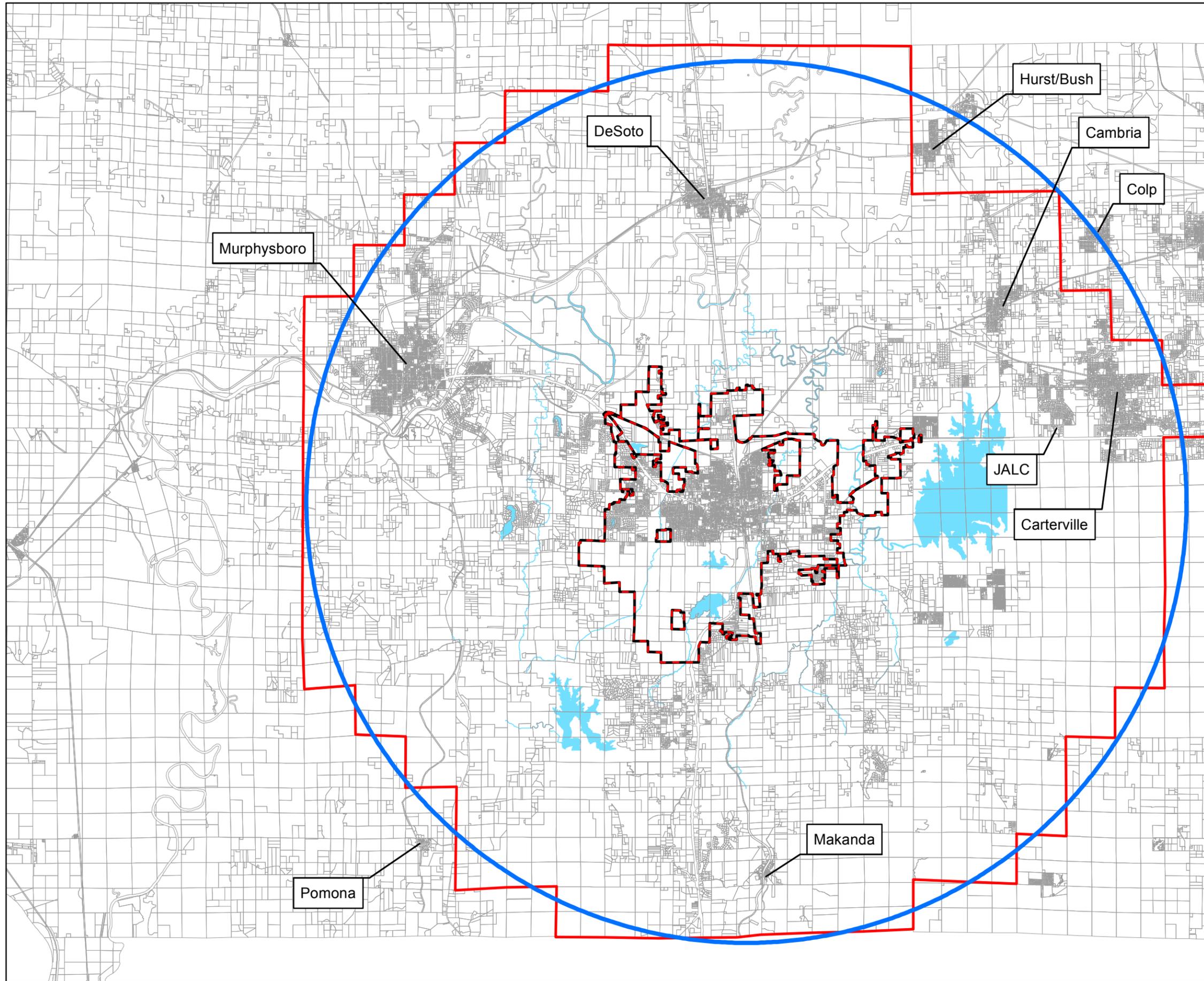
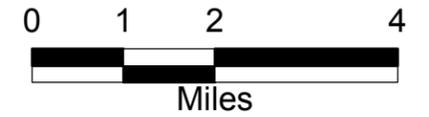
who accept employment with the city shall be required to comply with the residency requirements of this section.

2. The city shall give preference to persons who reside ~~within the~~ within the corporate limits of the city when filling vacant job positions.

FE. Disciplinary Action: Any employee who fails to comply with the requirements of this section shall be dismissed from such employment. (Ord. 86-32)

City of Carbondale

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Legend

-  Carbondale City Limits
-  9 Mile Residency Boundary
-  9 Mile Radius