

Ordinance No. 1011-16

AN EMERGENCY ORDINANCE

Authorizing the submission to the electors of the City of Cleveland of an initiative petition proposing to amend the Codified Ordinances of the City of Cleveland, 1976 by enacting new sections 174.01 through 174.06, relating to Cleveland Minimum Wage.

Council Member Kelley
(by initiative petition)

FOR PASSAGE
September 12, 2016

WHEREAS, this ordinance constitutes an emergency measure providing for the immediate preservation of the public peace, property, health, and safety in that it must be certified to the election authorities in order for the question to appear at a special election to be held on May 2, 2017, and providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE PEOPLE OF THE CITY OF CLEVELAND:

Section 1. That this Council authorizes the submission to the electors of the City of Cleveland at a special election to be held at the usual places of voting in the City of Cleveland on May 2, 2017, of an initiated proposal to amend the Codified Ordinances of the City of Cleveland, 1976, by enacting new sections 174.01, 174.02, 174.03, 174.04, 174.05, and 174.06 to read, respectively, as follows:

TITLE
CLEVELAND MINIMUM WAGE

Section 174.01

Definitions

For purposes of this Chapter:

(a) "An individual employed in or about the property of an employer or individual's residence", "casual basis", and "family member" have the same meaning as those terms are defined in Ohio Rev. Code Section 4111.14(D).

(b) "City" means the City of Cleveland, including all City divisions, departments, and offices.

(c) "Covered employer" means any person or entity employing 25 or more employees in the United States during the previous calendar year and who otherwise meets the definition of "employer" under Section 34a of Article II of the Ohio Constitution.

(d) "Employee" has the same meaning as in Ohio Rev. Code Section 4111.14 (B)(1), but does not include: any individual employed by a solely family owned and operated business, who is a family member of one of the owners; or any individual employed on a casual basis in or about the property of the employer or at the individual's residence.

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Section 174.02

Required Minimum Wage Rate

(a) Beginning January 1 following the approval of this ordinance by the voters, every covered employer shall pay each of its employees working within the geographical boundaries of the City of Cleveland at a wage rate of not less than \$12.00 per hour; which shall increase annually at a rate of \$1.00 per hour each subsequent January 1, until the wage rate reaches \$15.00. Thereafter, the minimum wage rate provided in this Chapter shall be increased annually by the rate of inflation for the twelve month period prior to the September preceding the required increase according to the consumer price index or its successor index for all urban wage earners and clerical workers for all items as calculated by the federal government rounded to the nearest five cents.

(b) A covered employer is not required to pay the minimum wage rate established in this Chapter with respect to an individual employee if:

(1) The employer has received a license issued by the State of Ohio authorizing payment of a wage rate below that required by Section 34a of Article II of the Ohio Constitution to employ the individual employee with mental or physical disabilities that may otherwise adversely affect their opportunity for employment; or

(2) The employer can demonstrate that an individual employee receives tips that combined with the wages paid by the employer are equal to or greater than the minimum wage rate for all hours worked. In such a case, an employer may pay an employee less than, but not less than half, the minimum wage rate required by this Chapter if the employee earns the minimum wage rate established in this Chapter for all hours worked inclusive of tips.

Section 174.03

Prohibited Acts

(a) No covered employer shall pay or agree to pay wages at a rate less than the rate required by this Chapter. Each week or portion thereof for which the covered employer pays any employee less than the rate required by this Chapter constitutes a separate offense.

(b) No covered employer shall reduce the wage rate of any employee as a consequence of this Chapter.

(c) No covered employer shall discharge or in any other manner discriminate against any employee because the employee made any complaint that the employee has not been paid wages in accordance with this Chapter, or because the employee has or will cause any proceeding to be instituted under or related to this Chapter, or because the employee has testified or is about to testify in any proceeding related to this Chapter.

(d) No covered employer shall otherwise violate any provision of this Chapter. Each day of violation constitutes a separate offense.

Section 174.04

Civil Actions

The City, an employee, or any person acting on behalf of an employee or all similarly-situated employees may bring a civil action in a court of competent jurisdiction for such legal or equitable relief as may be appropriate to remedy a violation of Chapter 174, within three (3) years of the violation or of when the violation ceased if it was of a continuing nature. There shall be no exhaustion requirement, no procedural, pleading or burden of proof requirements beyond those that apply generally to civil suits in order to maintain such action and no liability for costs or attorney's fees on an employee

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except upon a finding that such action was frivolous in accordance with the same standards that apply generally in civil suits. Where a covered employer is found to have violated any provision of this Chapter, the covered employer shall within thirty (30) days of the finding pay the employee back wages, damages, and the employee's costs and reasonable attorney's fees. Damages shall be calculated as an additional two times the amount of the back wages and in the case of a violation of an anti-retaliation provision an amount set by the court sufficient to compensate the employee and deter future violations, but not less than one hundred fifty dollars for each day that the violation continued. Payment under this paragraph shall not be stayed pending any appeal.

Section 174.05 Effect

(a) Nothing in this Chapter interferes with, impedes, or in any way diminishes the right of employees to bargain collectively with their employers through representatives of their own choosing in order to establish wages or other conditions of work in excess of the applicable minimum wage rate established in this Chapter.

(b) Nothing in chapter shall be deemed to nor shall be applied in such a manner so as to have a constitutionally prohibited effect as an ex post facto law or impairment of an existing contract within the meaning of the Ohio or federal constitutions.

Section 174.06 Severability

If any portion of Chapter 174 is held invalid, the remainder of the Chapter shall not be affected by such holding and shall continue in full force and effect.

Section 2. That the forgoing proposed amendment to the Codified Ordinances, on receiving at least a majority of the votes cast at the May 2, 2017 special election, shall become effective immediately on its adoption.

Section 3. That the Clerk of this Council is authorized to promptly forward a certified copy of this ordinance to the Board of Elections of Cuyahoga County.

Section 4. That the Board of Elections of Cuyahoga County shall cause an appropriate notice to be given of the election to be held on May 2, 2017 on the foregoing amendment to the Codified Ordinances of this City and otherwise to provide for the election in the manner provided by the general laws of the State of Ohio.

Section 5. That, for the reasons stated in the preamble hereto, which is made a part hereof, this ordinance shall take effect and be in force immediately upon its passage by the affirmative vote of two-thirds of all the members elected to Council.

KJK:rns
9-12-16

BY: Initiative Petition

Ordinance No. 1012-16

AN EMERGENCY ORDINANCE

Repealing Ordinance No. 925-16, passed August 10, 2016.

Council Member Kelley

FOR PASSAGE
September 12, 2016

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That Ordinance No. 925-16, passed August 10, 2016, is repealed.

Section 2. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

KJK:rns
9-12-16

Ordinance No. 1013-16

AN EMERGENCY ORDINANCE

Consenting and approving the issuance of a permit for the 39th Annual “Walk of Hope”, on Saturday, October 1, 2016, sponsored by the Catholic Charities Disability Services and Ministries.

Council Member McCormack

FOR PASSAGE
September 12, 2016

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That pursuant to Section 411.06 of the Codified Ordinances of Cleveland, Ohio 1976, this Council consents to and approves the holding of the 39th Annual “Walk for Hope,” sponsored by the Catholic Charities Disability Services and Ministries, on Saturday, October 1, 2016, leave OLA/St. Joseph Center parking lot on Kenilworth Avenue; head east on Kenilworth to West 11th Street; turn right on West 11th to Starkweather Avenue; turn right on Starkweather to West 14th Street; turn right on West 14th to Kenilworth Avenue; turn right on Kenilworth to West 11th Street; turn left on West 11th and walk to University Road; turn right on University and walk to West 10th Street; turn right on West 10th and walk to stop sign; veer left to Professor Avenue – staying on the right hand side of the street and walk to Jefferson Avenue; turn right on Jefferson and walk to Starkweather Avenue – cross West 14th Street to the west side of West 14th; turn right on to West 14th Street – cross Kenilworth Avenue and return to OLA/St. Joseph Center, provided that the applicant sponsor shall meet all the requirements of Section 411.05 of the Codified Ordinances of Cleveland, Ohio, 1976. Streets may be closed as determined by the Chief of Police and safety forces as may be necessary in order to protect the participants in the event. Said permit shall further provide that the City of Cleveland shall be fully indemnified from any and all liability resulting from the issuance of the same, to the extent and in form satisfactory to the Director of Law.

Section 2. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Ordinance No. 1014-16

AN EMERGENCY ORDINANCE

To amend Ordinance No. 440-16, passed August 10, 2016, relating to portable storage containers and penalty, to repeal existing Section 327.99.

Council Members Kazy and Brady

FOR PASSAGE
September 12, 2016

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That Ordinance No. 440-16, passed August 10, 2016, is amended to read as follows:

Section 2a. That existing Section 327.99 of the Codified Ordinances of Cleveland Ohio, 1976, as amended by Ordinance No. 1396-14, passed December 8, 2014, is repealed.

Section 2. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

KJK:rns
9-12-16

Ordinance No. 1073-16

AN EMERGENCY ORDINANCE

Council Members McCormack and Zone

FOR PASSAGE
September 12, 2016

Amending the Title and Sections 1 and 2 of Ordinance No. 930-16, passed August 10, 2016 as it pertains to authorizing the Director of the Department of Community Development to enter into agreement with the Near West Side Multi Service Corporation (dba) May Dugan Center for the Food Distribution Program through the use of Wards 3 and 15 Casino Revenue Funds.

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the Title and Sections 1 and 2 of Ordinance No. 930-16, passed August 10, 2016 are hereby amended to read as follow:

An emergency ordinance authorizing the Director of the Department of Community Development to enter into agreement with the Near West Side Multi Service Corporation (dba) May Dugan Center for the Food Distribution Program through the use of Wards 3 and 15 Casino Revenue Funds.

Section 1. That the Director of the Department of Community Development is hereby authorized to enter into agreement effective September 1, 2016 with the Near West Side Multi Service Corporation (dba) May Dugan Center for the Food Distribution Program for the public purpose of providing fresh food and produce to low income residents residing in the city of Cleveland through the use of Ward(s) 3 and 15 casino revenue funds.

Section 2. That the cost of said contract shall be in an amount not to exceed \$12,500 and shall be paid from Fund No. 10 SF 188.

Section 2. That the Title and Sections 1 and 2 of Ordinance No. 930-16, passed August 10, 2016 are hereby repealed.

Section 3. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Ordinance No. 1074-16

AN EMERGENCY ORDINANCE

Authorizing the Director of the Department of Community Development to enter into an agreement with Ashbury Community Services, Inc for the Ashbury Senior Computer Community Center Training Program through the use of Ward 9 Casino Revenue Funds

Council Member Conwell

FOR PASSAGE
September 12 2016

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the Director of the Department of Community Development be authorized to enter into an agreement effective September 1, 2016 with the Ashbury Community Services, Inc., for the Ashbury Senior Computer Community Center Training Program for the public purpose of providing computer training classes for adults and senior citizens residing in the city of Cleveland through the use of Ward 9 Casino Revenue Funds.

Section 2. That the cost of said contract shall be in an amount not to exceed \$25,000 and shall be paid from Fund No. 10 SF 188.

Section 3. That the Director of Law shall prepare and approve said contract and that the contract shall contain such terms and provisions as he deems necessary to protect the City's interest.

Section 4. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

For: Council Member Conwell
KC/jhj
9/12/2016

Ordinance No. 1075-16

AN EMERGENCY ORDINANCE

Authorizing the Director of the Department of Community Development to enter into an agreement with the Cleveland Tenants Organization for the Rental Information Center and Tenant Advocacy Program through the use of Ward 3 Casino Revenue Funds.

Council Member McCormack

FOR PASSAGE
September 12, 2016

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the Director of the Department of Community Development be authorized to enter into an agreement effective September 1, 2016 with the Cleveland Tenants Organization for the Rental Information Center and Tenant Advocacy Program for the public purpose of providing advocacy and counseling support for city of Cleveland residents in the area of housing services through the use of Ward 3 Casino Revenue Funds.

Section 2. That the cost of said contract shall be in an amount not to exceed \$2,500 and shall be paid from Fund No. 10 SF 188.

Section 3. That the Director of Law shall prepare and approve said contract and that the contract shall contain such terms and provisions as he deems necessary to protect the City's interest.

Section 4. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

For: Council Member McCormack
KM/jhj
9/12/2016

Ordinance No. 1076-16

AN EMERGENCY ORDINANCE

Authorizing the Director of the Department of Community Development to enter into agreement with the Cleveland Cultural Gardens Federation for the One World Day Centennial Expo through the use of Wards 1, 3, 11, 14 and 15 Casino Revenue Funds.

Council Members Brady, Cummins,
McCormack, Pruitt, and Zone

FOR PASSAGE
September 12, 2016

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the Director of the Department of Community Development is hereby authorized to enter into agreement effective June 1, 2016 for the One World Day Centennial Expo for the public purpose of providing educational programming and activities on the diverse ethnic population and various cultures that are present in the city of Cleveland through the use of ward(s) 11, 1, 3, 14 and 15 Casino Revenue Funds.

Section 2. That the cost of said contract shall be in an amount not to exceed \$6,000 and shall be paid from Fund No. 10 SF 188.

Section 3. That the Director of Law shall prepare and approve said contract and that the contract shall contain such terms and provisions as he deems necessary to protect the City's interest.

Section 4. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

For: Council Member Brady
DB/jhj
9/12/2016

Ordinance No. 1077-16

AN EMERGENCY ORDINANCE

Authorizing the Director of the Department of Aging to enter into an agreement with Court Community Service for the Senior Lawn Care Program through the use of Ward 1 Casino Revenue Funds

Council Member Pruitt

FOR PASSAGE
September 12, 2016

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the Director of the Department of Aging be authorized to enter into an agreement effective July 1, 2016 with Court Community Service for the Senior Lawn Care Program for the public purpose of assisting senior citizens residing in the city of Cleveland with grass cutting and lawn maintenance care through the use of Ward 1 Casino Revenue Funds.

Section 2. That the cost of said contract shall be in an amount not to exceed \$7,436 and shall be paid from Fund No. 10 SF 188.

Section 3. That the Director of Law shall prepare and approve said contract and that the contract shall contain such terms and provisions as he deems necessary to protect the City's interest.

Section 4. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

For: Council Member Pruitt
TP/jhj
9/12/2016