

Ordinance No. 924-16

Council Member Kelley

FOR PASSAGE
August 10, 2016

AN EMERGENCY ORDINANCE

Authorizing the Clerk of Council to enter into an agreement with Saint Martin De Porres High School Work Study Program to participate as a sponsor of students for work/study positions with Cleveland City Council.

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 Clerk of Council is authorized to enter into an agreement with Saint Martin De Porres High School Work Study Program to participate as a sponsor of students for work/study positions with Cleveland City Council. This agreement shall be entered into as of August 1, 2016 and shall terminate July 31, 2017. Cleveland City Council shall provide sponsorship for up to four students at a time during the term. The agreement shall be certified for \$34,600.00 and shall be certified from fund number 01, subfund 001, department 0101, object 6320.

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.

8/10/16
KJK:rms

Ord. No. 924-16

**REPORT
after second Reading**

Council Member Kelley

AN EMERGENCY ORDINANCE

Authorizing the Clerk of Council to enter into an agreement with Saint Martin De Porres High School Work Study Program to participate as a sponsor of students for work/study positions with Cleveland City Council.

and referred to **READ FIRST TIME** **REPORTS**

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME on AUGUST 10, 2016

PRESIDENT

CITY CLERK

APPROVED

MAYOR

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READ FIRST, SECOND AND THIRD TIME

Ordinance No. 925-16

Council Member Kelley
(by initiative petition)

FOR PASSAGE
AUGUST 10, 2016

AN EMERGENCY ORDINANCE

Authorizing the submission to the electors of the City of Cleveland of an initiative petition proposing to amend the Charter of the City of Cleveland by enacting new Sections 204 through 214, relating to City of Cleveland Part-Time Workers' Rights.

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 immediately in order for the question to appear at a special election to be held on November 8, 2016, 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 Tuesday, November 8, 2016, of an initiated proposal to amend the Charter of the City of Cleveland by enacting new Sections 204, 205, 206, 207, 208, 209, 210, 211, 212, 213 and 214 to read as follows:

City Of Cleveland Part-Time Workers' Rights

SECTION 204. CREATION OF THE PART-TIME WORKERS' RIGHTS COMMISSION

Promoting a healthy, prosperous economy is important to the City and to the quality of life for its residents. Part-time employment opportunities that provide a dependable and predictable source of income are a key element of such an economy, especially for those who need to schedule and pay for child and elder care. Treating part-time workers with the same respect and dignity as those who work full-time is important to the financial and emotional well-being of employees.

In order to foster these kinds of desirable part-time employment opportunities for its residents, the City hereby affirms the following: economic productivity is increased when employers have access to a reliable, trained and enthusiastic workforce; economic success is increased when employees are invested in a positive outlook for their employer; employees perform better when they can coordinate their work and personal schedules in advance in order to adequately address work and personal responsibilities; employees perform better when they can rely on a predictable source of income with which to meet their financial obligations; and employees experience greater job satisfaction when they feel their contributions to the employer are valued equally to that of the other employees, regardless of status as full-time or part-time.

For the purpose of establishing oversight and workplace standards that support the productivity and economic success of employers and enhance the ability of part-time employees to perform at their highest potential, the Part-Time Workers' Rights Commission is hereby established.

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SECTION 205. COMPOSITION OF THE COMMISSION

The Commission shall be composed of five (5) individuals who shall be appointed by the City Council to serve without compensation. Appointments shall be for a term of two years or until their respective successors shall have been appointed and duly qualified. Such members shall be appointed in such manner as to create staggered terms. If a vacancy occurs for any reason, the City Council shall fill the unexpired term. Two members of the Commission shall be representative of employers, two members shall be representative of part-time employees, and one member shall represent the general public.

For purposes of Sections 204 to 214, the following terms have the following meanings: "part-time" shall mean employed on an hourly basis fewer than forty (40) hours per work week; "full-time" shall mean employed for forty (40) or more hours per work week; and "employer" shall mean any individual, corporation, partnership, association, labor organization, legal representative, mutual company, joint stock company, trust, unincorporated organization, trustee, trustee in bankruptcy, receiver, fiduciary and other organizations, including corporate officers or executives, who directly or indirectly or through an agent or any other person, including through the services of a temporary services or staffing agency or similar entity, employ or exercise control over the wages, hours or working conditions of any individual.

SECTION 206. DUTIES OF THE COMMISSION

The Commission shall have the power, authority, and duty to:

1. Advise and consult with the City Council on all matters involving workplace policies and conditions for part-time employees.
2. Serve in an advisory and consultative capacity to the City Council to assure effective compliance with fair part-time workplace policies and requirements and recommend to the City measures aimed at improving the ability of the City to promote equitable and practical working conditions for all part-time employees.
3. Recommend to the City Council legislation to aid in progress designed to comply with and further the purposes of Sections 204 to 214 and encourage community support for such legislation.
4. Receive complaints from any complainant concerning alleged violations of Sections 204 to 214. The Commission shall, upon the receipt of such complaints, investigate and report to the City Council in writing the facts, findings and recommendations after using persuasion, mediation and conciliation in accordance with the rules of the Commission as approved by the City Council in an attempt to provide mutual understanding and satisfaction of the problem involved.
5. Enforce the workplace requirements under Sections 204 to 214 and make recommendations to the City Council for any amendments as may be needed over time to promote the continued effective administration of these sections.
6. Conduct research and obtain factual data to ascertain the status of part-time employment in the City and periodically evaluate the impact and effectiveness of the requirements of Sections 204 to 214.
7. Cooperate with all city, state, county, federal, and other governmental agencies with resources helpful in achieving mutual appreciation and support of the social and economic benefits of fair part-time employment conditions and full utilization of human resources.
8. Employ staff as needed to effectively carry out its duties required under this section.

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SECTION 207. ADVANCE NOTICE OF WORK SCHEDULES AND CHANGES IN WORK SCHEDULES

An employer shall provide any part-time employee with a good faith estimate via email or text message as well as in writing of the employee's expected minimum number of scheduled shifts, and the days and hours of those shifts. This estimate shall include on-call shifts, where "on-call" means any work shift for which an employee must work on less than forty-eight (48) hours' notice. The estimate shall not constitute a contractual offer and the employer shall not be bound by the estimate.

An employer shall provide its part-time employees who request it with at least two weeks' notice of their work schedules by doing either one of the following at least every fourteen (14) days: posting the work schedule in a conspicuous place at the workplace that is readily accessible and visible to the requesting employees; or transmitting the work schedule by email or text, so long as the requesting employees are given access to the electronic schedule at the workplace.

For part-time employees who request it, an employer shall provide the employee on his or her first day of employment with an initial work schedule that runs through the date that the next biweekly schedule for existing employees is scheduled to be posted or distributed. For all requesting employees, the work schedule shall include any on-call shifts, where applicable.

An employer may not require a part-time employee to be on-call, except for one mutually agreed-to shift per week. Either party may cancel that shift without repercussion or penalty as long as the cancellation occurs at least (48) forty-eight hours before the on-call shift is to start.

An employer shall provide a part-time employee notice of any change to the employee's schedule that has been posted or transmitted pursuant to this section. The employer shall provide such notice by email or text message as well as in writing. This notice requirement shall not apply to any schedule changes requested by the employee, such as employee-requested sick leave, time off, shift trades, or additional shifts.

The requirements of this section shall not apply under any of the following circumstances:

1. When operations cannot begin or continue due to threats to employees or property, or when civil authorities recommend that work not begin or continue;
2. When operations cannot begin or continue because public utilities fail to supply electricity, water, or gas, or there is a failure in a public utility or sewer system; or
3. When operations cannot begin or continue due to an act of God or other cause not within the employer's control.

Nothing in this section shall be construed to prohibit an employer from providing greater advance notice of part-time employees' work schedules and/or changes in schedules than that required by this section.

SECTION 208. EQUAL TREATMENT FOR PART-TIME EMPLOYEES

Employers shall provide part-time employees with the same starting hourly wage as that provided to starting full-time employees who hold jobs that require equal skill, effort, and responsibility, and that are performed under similar working conditions. Pay differentials between part-time and full-time employees are permissible if such differentials are based on reasons other than the part-time status of the employee. This section shall not affect the minimum hourly requirements for receipt of benefits including, but not limited to, health care benefits.

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Employers shall provide part-time employees with proportional access to employer-provided paid and unpaid time off, including sick leave, personal leave and vacation leave, as that afforded to full-time employees for the same job classification. A part-time employee's eligibility for employer-provided paid or unpaid time off may be pro-rated based on the number of hours that the part-time employee works.

Employers shall provide part-time employees with the same eligibility for promotions as that afforded to full-time employees for the same job classification, provided that an employer may condition eligibility for promotion on the employee's availability for full-time employment and on reasons other than the part-time status of the employee, such as the nature and amount of work experience.

Employers shall provide part-time employees with the same pro-rated eligibility for other benefits as that afforded to full-time employees for the same job classification.

SECTION 209. NOTICE OF EMPLOYEE RIGHTS

The Commission shall publish and make available to employers, in any language recognized by the City, a notice suitable for posting by employers in the workplace informing part-time employees of their rights under Sections 204 to 214. Every employer that employs part-time employees shall post such notice at its workplaces or job sites in conspicuous locations to ensure that part-time employees are informed of their rights under these sections.

SECTIONS 210. RETENTION OF EMPLOYMENT RECORDS

For a period of not less than three (3) years, employers shall retain employment and payroll records pertaining to current and former part-time employees.

SECTION 211. INVESTGATION AND ENFORCEMENT

Any person who claims to have been injured by a violation of Sections 204 to 214 or who believes they will be irrevocably injured by a violation of these sections that has occurred or is occurring may file a complaint with the Commission. Any such complaint shall be filed within one hundred eighty (180) days of the occurrence of an alleged violation, shall be in writing, shall identify the person or entity alleged to have committed or alleged to be committing a violation of these sections, and shall state the facts upon which the allegations of a violation are based.

Upon the filing of a complaint as herein provided, the Commission shall cause to be made a prompt and full investigation of the matter stated in the complaint. During or after the investigation, the Commission shall, if it appears that a violation has occurred or is threatening to occur, attempt by informal endeavors to effect conciliation, including voluntary discontinuance of the violation and adequate assurance of future voluntary compliance with the provisions of Sections 204 to 214.

Upon completion of the investigation and informal endeavors at conciliation by the Commission, but within thirty (30) days of the filing of the complaint with the Commission, if the efforts of the Commission to secure voluntary compliance have been unsuccessful, and if the Commission has made a determination that a violation of Sections 204 to 214 has in fact occurred, such conclusion shall be submitted to the Director of Law who shall make a determination regarding civil enforcement in the Cleveland Municipal Court. If the Director of Law decides to proceed with civil enforcement, he or she shall institute such action within thirty (30) days after such determination has been made, or as soon thereafter as practicable.

If the Commission determines that there is not probable cause to believe that a particular alleged or suspected violation of these sections has been committed, the

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Commission shall take no further action with respect to that alleged or suspected offense. In such case, the person filing the complaint shall be notified by the Commission and informed of any alternate action they may take, including appeal to the City Council.

SECTION 212. UNLAWFUL INTIMIDATION

It shall be unlawful for any person to harass, threaten, harm, damage, or otherwise penalize any individual, whistleblower, group, or business because they have complied with the provisions of Sections 204 to 214, because they have exercised their rights under these sections or enjoyed the benefits of these sections, or because they have made a charge, allegation, testified, or assisted in any manner in any investigation, or in any proceeding hereunder or have made any report to the Commission. A violation of this section shall be subject to the penalty provisions of Section 213.

SECTION 213. PENALTY

Any person or entity violating any provision of Sections 204 to 214 shall be subject to a civil penalty of one thousand (\$1,000) dollars per violation. If a person or entity is assessed three (3) such penalties in any thirty-six (36) month period, the amount of the penalty for any subsequent violations by such person or entity shall be increased to ten thousand (\$10,000) dollars per violation for a period of five years. In any penalty enforcement action, the violator shall also be liable for the attorneys' fees of the City and the complainant. Each day a violation continues after the passage of seventy-five (75) days from the date of the filing of the initial complaint with the Commission shall constitute a separate and distinct offense. Any person or entity violating any provision of Sections 204 to 214 may be enjoined by a suit filed by the City in a court of competent jurisdiction, and this remedy is in addition to any penalty provision.

SECTION 214. LEGAL EFFECT

If any section, subsection, paragraph, sentence, clause, phrase, or word of Sections 204 to 214, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of these sections. Sections 204 to 214 are cumulative in their legal effect and are not in lieu of any and all other legal remedies which an aggrieved person may pursue. Nothing in Sections 204 to 214 shall be construed as limiting the rights and remedies that the law otherwise provides to employees nor shall be interpreted or applied so as to create any right, requirement, power, or duty in conflict with any federal or state law.

Section 2. That the forgoing proposed amendment to the Charter, on receiving at least a majority of the votes cast at the November 8, 2016, 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.

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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 November 8, 2016, on the foregoing amendment to the Charter 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 the Clerk of Council is authorized to cause the full text of the proposed amendment to the Charter to be published once a week for two consecutive weeks in a newspaper published in the City of Cleveland, with the first publication to be made at least fifteen days prior to the special election to be held on November 8, 2016, as provided in Article XVIII, Section 9 of the Constitution of the State of Ohio, Section 731.211 of the Revised Code, and Section 200 of the Charter of the City of Cleveland.

Section 6. 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
8/10/16

BY: Initiative Petition

Ord. No. 925-16

**REPORT
after second Reading**

Council Member Kelley (By Initiative Petition)

AN EMERGENCY ORDINANCE

Authorizing the submission to the electors of the City of Cleveland of an initiative petition proposing to amend the Charter of the City of Cleveland by enacting new Sections 204 through 214 of the Charter, relating to City of Cleveland Part-Time Workers' Rights.

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PRESIDENT

CITY CLERK

APPROVED

MAYOR

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Ordinance No. 929-16

AN EMERGENCY ORDINANCE

Authorizing the Director of the Department of Community Development to enter into agreement with CAMHP Foundation for the Economic Rehabilitation – One Neighbor at a Time Program through the use of Ward 8 Casino Revenue Funds.

Council Member Polensek

FOR PASSAGE
August 10, 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 July 1, 2016 with the CAMHP Foundation for the Economic Rehabilitation – One Neighbor at a Time Program for the public purpose of providing financial literacy education to low and moderate income residents residing in the city of Cleveland through the use of Ward 8 Casino Revenue Funds.

Section 2. That the cost of said contract shall be in an amount not to exceed \$5,000 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 Polensek
MP/jhj
8/10/2016

Ord. No. 929-16

**REPORT
after second Reading**

Council Member Polensek

AN EMERGENCY ORDINANCE

Authorizing the Director of the Department of Community Development to enter into agreement with CAMHP Foundation for the Economic Rehabilitation – One Neighbor at a Time Program through the use of Ward 8 Casino Revenue Funds.

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Ordinance No. 930-16

Council Member McCormack

FOR PASSAGE
August 10, 2016

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 Ward 3 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 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 3 casino revenue funds.

Section 2. That the cost of said contract shall be in an amount not to exceed \$7,500 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
8/10/2016

Ord. No. 930-16

**REPORT
after second Reading**

Council Member McCormack

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 Ward 3 Casino Revenue Funds.

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Ordinance No. 931-16

Council Members McCormack, Mitchell and Kazy

FOR PASSAGE
August 10, 2016

AN EMERGENCY ORDINANCE

Authorizing the Director of the Department of Community Development to enter into agreement with Cleveland Public Theatre for the Student Theatre Enrichment Program (STEP) through the use of Wards 3, 6 and 16 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 Director of the Department of Community Development is hereby authorized to enter into agreement with Cleveland Public Theatre for the Student Theatre Enrichment Program (STEP) for the public purpose of providing theatre education and training on live arts to city of Cleveland youth through the use of Wards 3, 6 and 16 Casino Revenue Funds.

Section 2. That the cost of said contract shall be in an amount not to exceed \$20,000 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 McCormack
KM/jhj
8/10/2016

Ord. No. 931-16

**REPORT
after second Reading**

Council Members McCormack, Mitchell and Kazy

AN EMERGENCY ORDINANCE

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