

Ordinance No. 1472-16

AN EMERGENCY ORDINANCE

Council Members Brancatelli and Polensek

To supplement the Codified Ordinances of Cleveland, Ohio, 1976, by enacting new Chapter 686B, Sections 686B.01 through 686B.06 and 686B.99, regulating non-bank automated teller machines.

WHEREAS, smash and grab robberies and burglaries are increasingly victimizing Cleveland convenience stores, grocery stores, and gas station stores, as criminals drive stolen vehicles into store fronts to steal non-bank owned automated teller machines (ATMs); and

WHEREAS, the crime wave is jeopardizing the safety of customers and store employees, disrupting business, and causing thousands of dollars in store damage and lost ATM money; and

WHEREAS, an ATM contains an average of approximately \$10,000, and the cost of smash and grab thefts nationwide is estimated at \$288 million per year, including theft, repair and loss of business costs; and

WHEREAS, regulating the placement and installation of ATMs, and requiring security measures at stores, including security cameras, lighting, bollards, and GPS trackers on ATMs, will deter criminals from committing smash and grab robberies at easy targets and help catch criminals; and

WHEREAS, Senator Tom Patton introduced Senate Bill No. 335 pending in the Ohio Senate that would require the superintendent of financial institutions to adopt rules to regulate the placement of automated teller machines and regulate the servicing of automated teller machines, including how often cash is replenished and more frequent servicing with smaller amounts of cash; and

WHEREAS, Cleveland City Council wants to protect citizens and prevent smash and grab robberies by regulating installation, requiring security measures, and requiring more frequent servicing of non-bank owned automated teller machines; and

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 Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by enacting new Chapter 686B, Sections 686B.01 through 686B.06 and 686B.99 to read as follows:

CHAPTER 688

NON-BANK AUTOMATED TELLER MACHINES

Section 686B.01 Definition

As used in this chapter:

- (a) "Automated teller machine" means an automated, unstaffed banking facility to which both of the following apply:
 - (1) It is owned or operated by, or operated in sponsorship with, a financial institution at which deposits are received, cash disbursed, or money lent.
 - (2) It is located at a non-bank location, including but not limited to a convenience store, grocery store, restaurant, dollar store, or gas station store.
- (b) "Bank" means, as defined in Ohio Revised Code Section 1101.01 (B), a corporation that solicits, receives, or accepts money or its equivalent for deposit as a business, whether the

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deposit is made by check or is evidenced by a certificate of deposit, passbook, note, receipt, ledger card, or otherwise “Bank” also includes a state bank or a corporation doing business as a bank or savings bank under authority granted by the bank regulatory authority of another state of the United States or another country, but does not include a savings association, savings bank, or credit union.”

- (c) “Financial Institution” has the same meaning as defined in Ohio Revised Code Section 5725.01 (A).
- (d) “Operator” means a person or an agent or officer of a person in whom is vested ownership, dominion, control or title, and operation of an automated teller machine.
- (e) “Store owner” means the owner of a non-bank commercial business that contains or intends to install an ATM inside.
- (f) “Candlefoot power” means the light intensity of candles on a horizontal plane at thirty-six inches above ground level and five feet in front of the area to be measured.

Section 686B.02 General Prohibition on Installation without Registration and License

No operator of an automated teller machine shall install and/or maintain an automated teller machine in the City of Cleveland unless such operator shall register with and obtain a license for such automated teller machine from the Commissioner of the Division of Assessments and Licenses (Commissioner) in accordance with the requirements of this chapter.

Section 686B.03 Registration and License Application, Renewal and Fee

- (a) The Commissioner shall not issue a license to any operator who:
 - (1) does not operate an ATM in accordance with the requirements of this chapter; or
 - (2) has been convicted of any form of theft;
- (b) Before installing and/or maintaining an ATM in the City of Cleveland, the operator shall file a license application with the Commissioner in accordance with the requirements of this chapter and containing the following information:
 - (1) The location and address where the ATM will be installed and maintained;
 - (2) The name, address, phone and electronic contact information of the operator, store owner, and property owner, to be updated during the year if such information changes;
 - (3) The name, address, phone and electronic contact information of a person or persons primarily responsible for placing, servicing, and maintaining the ATM, to be updated during the year if such information changes;
 - (4) A fee amount to be determined by the Board of Control to defray the expenses of administering the provisions of this chapter and not prorated based upon the time of the year the permit application is filed; and
 - (5) Written authorization from the store owner where the ATM will be placed;

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(6) All operators who have installed and/or maintained an ATM prior to the enactment of this law must file the license application with the Commissioner within ninety days of the effective date of this ordinance.

(c) *License Term.* Licenses shall be granted for each calendar year, and a new license is required for each subsequent calendar year.

(d) *License Display.* The operator shall display the license on a conspicuous part of the ATM.

(e) The Commissioner may suspend or revoke any license granted under this section on the basis of a violation of this chapter.

Section 686B.04 Regulation of Installation

During installation of an automated teller machine, an operator must:

- (a) Secure the automated teller machine to the floor with reinforcing brackets or base plates; and
- (b) Secure the automated teller machine to the wall from the outside to the inside with reinforcing brackets or base plates; and
- (c) Place the automated teller machine against a brick or concrete wall or another substantial surface, away from the front store entrance wall and not assessable from the parking lot; and
- (d) Secure a global positioning system (GPS) tracking device to the ATM that can locate the unit if it is stolen.

Section 686B.05 Security measures

A store owner shall maintain the following security measures at its ATM facilities:

- (a) Strategic placement of steel bollards that are a maximum of four feet high and spaced no less than twenty-four inches apart, or concrete planter boxes that are no less than two feet high, by the front entrance of the store; and
- (b) Lighting in the parking area and front entrance of the store, beginning at dusk, according to the following standards:
 - (1) A minimum of ten candlefoot power at the front entrance of the store and extending in an unobstructed direction outward five feet; and
 - (2) A minimum of two candlefoot power in the parking area within sixty feet of the front entrance of the store.
- (c) Two surveillance cameras installed and maintained as follows:
 - (1) one which shall view and record all persons and activity occurring within a minimum of six feet from the front entrance of the store facing into the parking area; and
 - (2) one which shall view and record all persons and activity occurring within a minimum of six feet from the ATM located inside the store; and
 - (3) The recordings made by such cameras shall be preserved by the store owner for at least thirty days.

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Section 686B.06

Servicing requirements

An operator shall service an ATM as follows:

- (a) replenish the cash in the ATM at least every month; and
- (b) provide no more than two thousand dollars (\$2000.00) in cash in an ATM upon servicing.

Section 686B.99

Penalty

Whoever violates Section 686B.02 of this chapter shall be guilty of a fourth degree misdemeanor on the first offense, a misdemeanor of the third degree on the second offense, and a misdemeanor of the first degree on the third and any subsequent offense. Each day during which noncompliance or a violation continues shall constitute a separate offense.

Whoever violates any provision of Sections 686B.03, 686B.04, 686B.05 or 686B.06 of this chapter is guilty of a minor misdemeanor, and shall be fined one hundred and fifty dollars (\$150).

Section 2. That this ordinance is 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.

jho 12-5-16 FOR: Council Members Brancatelli and Polensek

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REPORT
after second Reading

Council Members Brancatelli and Polensek

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To supplement the Codified Ordinances of Cleveland, Ohio, 1976, by enacting new Chapter 686B, Sections 686B.01 through 686B.06 and 686B.99, regulating non-bank automated teller machines.

READ FIRST TIME on DECEMBER 5, 2016
and referred to DIRECTORS of Finance, Law;
COMMITTEES on Development Planning and Sustainability, Finance

REPORTS

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

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PASSAGE RECOMMENDED BY
COMMITTEE ON
DEVELOPMENT, PLANNING AND
SUSTAINABILITY

FILED WITH COMMITTEE

PASSAGE RECOMMENDED BY
COMMITTEE ON
FINANCE

FILED WITH COMMITTEE

Ordinance No. 1473-16

AN EMERGENCY ORDINANCE

Authorizing the Council President to enter into an agreement with Cobalt Group, Inc. to provide professional services regarding Cleveland City Council operations and staff development.

Council Member Kelley

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 Council President is authorized to enter into an agreement with Cobalt Group, Inc. (“Consultant”) to provide professional services regarding Cleveland City Council operations and staff development, including the services set forth in Consultant’s Statement of Work, as directed by the Clerk of Council or her designee. This agreement shall be entered into as of January 1, 2017 and shall be for a term of one year, concluding December 31, 2017.

The agreement shall be certified in an amount not to exceed \$66,000.00 from fund 01, dept. 0101, subfund 001, and object code 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.

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Council Member Kelley

AN EMERGENCY ORDINANCE

Authorizing the Council President to enter into an agreement with Cobalt Group, Inc. to provide professional services regarding Cleveland City Council operations and staff development.

READ FIRST TIME on DECEMBER 5, 2016
and referred to COMMITTEE on Finance

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CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

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REPORT
after second Reading

PASSAGE RECOMMENDED BY
COMMITTEE ON
FINANCE

FILED WITH COMMITTEE

Ordinance No. 1474-16

AN EMERGENCY ORDINANCE

Authorizing the Clerk of Council to enter into an agreement with Mita Marketing LLC for the professional services necessary to assist Cleveland City Council with communications and public relations.

Council Member Kelley

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 Mita Marketing LLC for the professional services necessary to assist Cleveland City Council with communications and public relations, for a one year period beginning January 1, 2017 and concluding December 31, 2017.

Section 2. That the cost of said contract shall not exceed \$60,000 and shall be certified from Fund 01, Dept. 0101, Subfund 001, Object Code 6320.

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.

Jho 12-5-16 For: Council Member Kelley

