

ORDINANCE NO. 04-18

AN ORDINANCE TO AMEND SECTION 123.03 OF THE CODIFIED ORDINANCES OF THE CITY OF EAST CLEVELAND TO COMPLY WITH SECTION 9.481(B)(1) OF THE OHIO REVISED CODE AND OHIO SUPREME COURT CASE, *CITY OF LIMA V. STATE OF OHIO*, 122 OHIO ST. 3D 155, 2009 OHIO 2597 PROHIBITING EMPLOYEE RESIDENCY REQUIREMENTS BY POLITICAL SUB-DIVISIONS.

Requested By: Civil Service Commission
Sponsored By: Joie N. Graham, Council President

WHEREAS, it is necessary to amend the City's current Civil Service law under City Ordinance 123.03 to comply and be consistent with Ohio Revised Code Section 9.481(B)(1) and decision of the Ohio Supreme Court in *City of Lima v. State of Ohio*, 122 Ohio St. 3d155; 2009 Ohio 2597 effective at the earliest period permitted by law.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of East Cleveland, Ohio, three-fifths (3/5) of all members concurring:

SECTION 1. *Section 123.03 of The East Cleveland Codified Ordinances currently reads as follows:*

123.03 APPOINTMENTS, PROMOTIONS AND PROBATION.

- (a) *All appointments and promotions in the classified service of the City shall be made by the Mayor according to merit and fitness, which shall be ascertained by competitive examinations, and on and after passage hereof, all original appointments and appointments and promotions in the Police and Fire Departments shall be made upon the condition that the appointee or individual promoted shall reside within the City of East Cleveland during the tenure of such employee in the classified service, which condition shall not be waived except by the Mayor during the first six months of such tenure. All appointments and promotions shall be for a probationary period of one year, and no appointment or promotion is final until the employee has satisfactorily served his probationary period. Notwithstanding any other provision of this chapter an employee appointed or promoted in the classified service shall be subject to removal or demotion by the Mayor at any time during the probationary period without appeal to the Civil Service Commission if, in the opinion of the Mayor, his services are unsatisfactory. The term "reside" as used herein shall be construed to mean the maintaining of a residence which is the actual bona fide domicile of the individual where he or she normally eats, sleeps, maintains normal household and personal effects and represents as his or her domiciliary address for purposes of taxation, license registration, voting and otherwise. Any person reinstated according to law in the classified civil service*

shall be subject to the residency requirement in effect at the time of resignation of such person upon which reinstatement is based.

- (b) This requirement of residency during employment shall not be applied retroactively, nor to present employees of the City.
- (c) This requirement of residency during employment shall, however, be binding according to law and the terms hereof upon all future employees of the City, from and after the effective date of this section, unless the condition is waived, exempted or specially excepted by ordinance.
- (d) No person shall, in any way, falsify or misstate verbally or in writing any application, paper, document or form, which relates to his or her employment with the City of East Cleveland, that he or she is a resident of the City of East Cleveland, when in fact he or she is not a bona fide resident of the City of East Cleveland. Any officer or employee of the City of East Cleveland who is found to have supplied or furnished false or misleading information concerning his or her true residence or who fails to become a resident as herein required, or who, being a resident or having become a resident of the City, subsequently established a residence outside of the City, shall, after hearing, according to law, be discharged from service with the City. (Ord. 16-95. Passed 3-21-95.)

SECTION 2. Section 123.03 of The East Cleveland Codified Ordinances is to be **AMENDED** to read as follows:

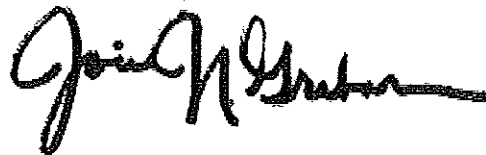
123.03 APPOINTMENTS. PROMOTIONS AND PROBATION.

- (a) All appointments and promotions in the classified service of the City shall be made by the Mayor according to merit and fitness, which shall be ascertained by competitive examinations, and on and after passage hereof, or by **successful completion of a probationary period as a Basic Patrol Officer as governed under the Collective Bargaining Agreement** . All appointments and promotions shall be for a probationary period of one year, and no appointment or promotion is final until the employee has satisfactorily served his probationary period. Notwithstanding any other provision of this chapter an employee appointed or promoted in the classified service shall be subject to removal or demotion by the Mayor at any time during the probationary period without appeal to the Civil Service Commission if, in the opinion of the Mayor, his services are unsatisfactory. .

SECTION 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all such deliberations of the Council were in meetings open to the public in compliance with all legal requirements.

SECTION 4. This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: April 3, 2018



JOIE GRAHAM
PRESIDENT OF COUNCIL

4/4/18

Date

APPROVED:



BRANDON L. KING
MAYOR

VETO:

YES _____ NO _____

ATTEST:

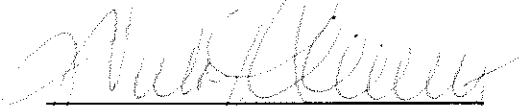


DR. KHADIJAH F. GUY
CLERK OF COUNCIL

4/4/18

Date

APPROVED AS TO FORM:



WILLA M. HEMMONS
DIRECTOR OF LAW

Emergency N/A First Read 2/20/18 Second Read 4/3/18

| | <u>Yea</u> | <u>Nay</u> |
|-----------------------------|------------|------------|
| Councilor Joie N. Graham | X | _____ |
| Councilor Earnest L. Smith | X | _____ |
| Councilor Barbara J. Thomas | X | _____ |
| Councilor Nathaniel Martin | X | _____ |
| Councilor Timothy Austin | X | _____ |