

City Clerk File No. Ord. 16.081

Agenda No. 3.M 1st Reading

Agenda No. \_\_\_\_\_ 2nd Reading & Final Passage



## ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE  
offered and moved adoption of the following ordinance:

CITY ORDINANCE 16.081

TITLE: **ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 254 (PROPERTY MAINTENANCE) OF THE JERSEY CITY MUNICIPAL CODE IMPLEMENTING ARTICLE XXII (BUILDING SERVICE EMPLOYEES) TO ESTABLISH A MINIMUM NUMBER OF HOURS IN A WORK WEEK FOR BUILDING SERVICE EMPLOYEES**

**COUNCIL** offered and moved adoption of the following Ordinance:

**WHEREAS**, the City has a vested interest in promoting the economic security and stability of workers and their families; and

**WHEREAS**, building service workers such as janitors, custodians, doormen and doorwomen, building superintendents, etc., make up a significant portion of the Jersey City workforce; and

**WHEREAS**, the City wishes to ensure that building service employees who service larger buildings have access to sufficient hours of work to support themselves and their families; and

**WHEREAS**, doing so requires the City to take action to prevent full-time building service jobs from being unnecessarily broken into part-time jobs, and thereby limiting the salaries of service providers as well as access to the benefits typically associated with full-time jobs such as health insurance coverage; and

**WHEREAS**, protecting the salaries and benefits of these building service workers is necessary to safeguard the prosperity of working families in Jersey City; and

**WHEREAS**, the surest way to protect the salaries and benefits of building service workers is to establish a minimum number of hours within a work week that building service employees who service larger buildings must be allowed to work.

**NOW, THEREFORE, BE IT ORDAINED** by the Municipal Council of City of Jersey City that:

A. The following amendments to Chapter 254 (Property Maintenance) are hereby implemented and adopted:

### ARTICLE XXII Building Service Employees

#### §254-125.- Definitions.

**BUILDING SERVICES** - Shall include work performed by a janitor, building cleaner, concierge, porter, doorman, building superintendent, armed or unarmed security guard or handyperson.

**COVERED EMPLOYEE** - Shall mean (a.) any employee performing building services in or around a covered location in Jersey City except security or concierge services or (b.) any employee providing security or concierge services in or around a covered location in Jersey City from 12:01 AM Monday through 11:59 PM Friday of any week. But covered employee shall not include any employee providing security or concierge services only on Saturday and/or Sunday, nor shall it include any employee providing building services in order to temporarily replace a covered employee for a period of less than one work week.

**ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 254 (PROPERTY MAINTENANCE) OF THE JERSEY CITY MUNICIPAL CODE IMPLEMENTING ARTICLE XXII (BUILDING SERVICE EMPLOYEES) TO ESTABLISH A MINIMUM NUMBER OF HOURS IN A WORK WEEK FOR BUILDING SERVICE EMPLOYEES**

**COVERED EMPLOYER(S)** - Shall mean any individual, partnership, association, corporation, business trust, or any person or group of persons that (a) directly employs; (b) contracts or subcontracts for the services of a covered employee; (c) leases any portion of a covered location and (i) directly employs at least one covered employee or (ii) contracts or subcontracts for the services of at least one covered employee; or (d) owns or controls a covered location. Covered Employers for purposes of this ordinance do not include any governmental entities except for the City of Jersey City.

**COVERED LEAVE** - Shall mean unpaid temporary leave voluntarily taken by a covered employee pursuant to applicable federal, state or local law; written company policy; or by written request initiated by the covered employee.

**COVERED LOCATION** - Shall mean any office complex, college, university or museum location of one hundred thousand (100,000) square feet or more or a residential building or complex with more than fifty (50) units. For the purposes of this Article, a covered office location shall mean (1) a single office building; or (2) a continuous, commonly owned office park; or (3) a group of office buildings that have common ownership and management, and are contiguous or have consecutive addresses.

**DEPARTMENT** - Shall mean the Department of Housing Economic Development & Commerce.

**MINIMUM WORK WEEK** - Shall mean the minimum number of compensated hours provided to a covered employee in any work week, except for weeks in which the covered employee is taking covered leave.

**WORK WEEK** - Shall mean a fixed regularly recurring period of one hundred sixty eight (168) hours or seven (7) consecutive twenty four (24) hour periods.

**§254-126.- Purpose.**

The purposes of this Ordinance are:

- A. To promote the economic security and stability of workers and their families.
- B. Ensure that building service employees who make up a significant portion of the City's workforce have access to sufficient hours of work to support themselves and their families.
- C. To ensure that full-time building service jobs are not unnecessarily broken into part-time jobs, thereby limiting the earning potential of service providers as well as access to the benefits typically associated with full-time jobs such as health insurance coverage.
- D. To help protect the health of tenants, employees and the public by maximizing access of building services workers to health insurance.

**§254-127.- Minimum Work Week for Building Service Employees.**

The minimum work week for any covered employee as defined by this Ordinance shall be thirty (30) hours per week.

**§254-128.- Application.**

This Ordinance shall apply to any entity which is a covered employer in relationship to a covered location at which workers are employed to provide building services.

**§254-129.- Enforcement and Remedies.**

An employee displaced or terminated in violation of this section may bring an action in any court of competent jurisdiction against a covered employer for violations pursuant to this section.

**§254-130.- Penalties.**

A covered employer responsible for violating this section may be punished as provided in Chapter 1, General Provisions, §1-25, and the minimum fine for violating this section shall be not less than \$100. **ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 254**

(PROPERTY MAINTENANCE) OF THE JERSEY CITY MUNICIPAL CODE IMPLEMENTING ARTICLE XXII (BUILDING SERVICE EMPLOYEES) TO ESTABLISH A MINIMUM NUMBER OF HOURS IN A WORK WEEK FOR BUILDING SERVICE EMPLOYEES

Fines awarded pursuant to this section shall be remitted to aggrieved employees to make them whole for losses sustained due to actions violating this ordinance to the extent feasible.

A covered employer shall not retaliate or discriminate against any person because s/he has asserted her/his rights under this ordinance.

**§254-131. Notice and Posting.**

- A. All covered employers shall give individual written notice to each covered employee at the commencement of the employee's employment (or as soon as practicable if the employee is already employed on the effective date of this law) regarding employee's rights under this chapter. Such notice shall describe the right to a minimum work week of thirty (30) hours; the right to be free from retaliation for enforcing or seeking to enforce any right under this chapter; and the right to file a complaint if the covered employee is employed for a work week of less than thirty (30) hours or is retaliated against for enforcing or seeking to enforce any right under this ordinance. Such notice shall be in English and the primary language spoken by that employee provided that the Department has made available a translation of such notice into such language.
- B. Covered employers shall also display a poster in a conspicuous and accessible place in each establishment where employees are employed containing notice of this chapter. The poster shall be in English and in any language that is the first language of at least ten percent (10%) of the covered employer's workforce provided that the Department has made available a translation of such notice into such language.
- C. The Department shall create and make available to employers individual notices and posters. Notices and posters shall be provided in English, Spanish, Italian, Chinese, Polish, Portuguese, Tagalog, and any other languages selected by the Department.
- D. A covered employer who violates the notice and posting requirements of this section is subject to a civil fine in an amount not to exceed one hundred dollars (\$100.00) for each employee who was not given appropriate notice pursuant to this section and five hundred dollars (\$500.00) for each establishment in which a poster was not displayed.

**§254-132.- Severability.**

If any provision of this Ordinance or application thereof to any person or circumstance is judged invalid, the invalidity shall not affect other provisions or applications of the Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

- B. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
- C. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.
- D. This ordinance shall take effect at the time and in the manner as provided by law.
- E. The City Clerk and the Corporation Counsel may change any chapter numbers, article numbers and section numbers if codification of this ordinance reveals a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

Note: All material is new. Therefore, underlining has been omitted.

JML/he  
4/21/16

APPROVED AS TO LEGAL FORM

APPROVED: \_\_\_\_\_

\_\_\_\_\_  
Corporation Counsel

APPROVED: \_\_\_\_\_  
Business Administrator

Certification Required   
Not Required

City Clerk File No. \_\_\_\_\_ Ord. 16.082

Agenda No. \_\_\_\_\_ 3. N \_\_\_\_\_ 1st Reading

Agenda No. \_\_\_\_\_ 2nd Reading & Final Passage



## ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE  
offered and moved adoption of the following ordinance:

CITY ORDINANCE 16.082

**TITLE: ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 3 (ADMINISTRATION OF GOVERNMENT) ARTICLE VI (DEPARTMENT OF ADMINISTRATION) OF THE JERSEY CITY MUNICIPAL CODE TO MANDATE A TRANSITION PERIOD FOR ALL BUILDING SERVICE EMPLOYEES**

**COUNCIL** offered and moved adoption of the following Ordinance:

**WHEREAS**, building service workers, such as security guards, janitors, doormen, etc., provide necessary and important services that help maintain Jersey City's vibrant economy; and

**WHEREAS**, a landlord or property management firm's decision to terminate a service contract with a building service company can result in displacement of service workers and/or a period of long, and often unpaid transition for these employees as they seek out new job opportunities; and

**WHEREAS**, this displacement is often characterized by replacement of experienced workers with inexperienced ones, usually at entry-level wages; and

**WHEREAS**, high levels of employee turnover can disrupt service delivery thereby damaging the local economy and threatening the public welfare and safety; and

**WHEREAS**, §3-51.3 et. seq., of the Jersey City Municipal Code provides some temporary protection for the employees of service contractors when their employers lose a contract with the City; and

**WHEREAS**, nearly 50% of affected workers are Jersey City residents.

**NOW, THEREFORE BE IT ORDAINED**, by the Municipal Council of the City of Jersey City that:

- A. The following amendments to Chapter 3 (Administration of Government) Article VI (Department of Administration) are hereby adopted:

**ADMINISTRATION OF GOVERNMENT  
ARTICLE VI  
Department of Administration**

**§3-51.3. Transitional Employment Period for Employees of City Contractors.**

- A. The City shall give advance notice to a service contractor and any collective bargaining representative of the service contractor's employees that a service contract will be terminated, and the City shall also provide the name, address, and telephone number of the successor contractor or contractors where known. The terminated contractor shall, within five (5) days after receipt of such notice, provide to the successor contractor, the name, address, date of hire, and employment occupation classification of each employee employed at the site or sites covered by the service contract at the time of receiving said notice. If a successor contractor has not been identified by the City by the end of the five-day period, the terminated contractor shall provide the information to the City. At the same time that the terminated contractor provides this information to the successor contractor or the City, the terminated contractor shall provide each affected employee with notice of his/her right to obtain employment with the successor contractor.

**ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 3 (ADMINISTRATION OF GOVERNMENT) ARTICLE VI (DEPARTMENT OF ADMINISTRATION) OF THE JERSEY CITY MUNICIPAL CODE TO MANDATE A TRANSITION PERIOD FOR ALL BUILDING SERVICE EMPLOYEES**

- B. A successor contractor or subcontractor where applicable shall retain for a 90-day transitional employment period all employees who were employed by the terminated contractor and its subcontractors at the building(s) covered by the terminated contract.
- C. If at any time the successor contractor determines that fewer employees are required to perform the new service contract than had been performing such services under the terminated contract the successor contractor shall retain the employees by seniority within job classification. Except for such layoffs, during the 90-day transition period, the successor contractor shall not discharge without cause an employee retained pursuant to this section. During the 90-day transition period, the successor contractor shall maintain a preferential hiring list of those employees not retained, from which the successor contractor or its subcontractors shall hire additional employees.
- D. At the end of the 90-day transition employment period, the successor contractor shall perform a written performance evaluation for each employee retained pursuant to this section. If employee's performance during such 90-day period is satisfactory, the successor contractor or subcontractor shall offer the employee continued employment under the terms' and conditions established by the successor contractor or subcontractor or as required by law.

**§3-51.4. Compliance.**

- A. Compliance with this section shall be required in all City contracts to which it applies, and such contracts shall provide that violations of this section shall entitle the City to terminate the contract. In addition, failure to comply with these requirements may ban the contractor from holding contracts with the City for a period of three (3) years. Upon the City's request the contractor or subcontractor shall make all relevant records available to the City or its designee in order for the City to determine whether the contractor or subcontractor is in compliance with said requirements.
- B. An employee displaced or terminated in violation of this section may bring an action in any court of competent jurisdiction against a covered employer for violations pursuant to this section.

**§3-52. Transitional Employment Period for Employees of Contractors employed in Jersey City.**

- A. Definitions.

For the purposes of this section, the following terms shall have the meanings indicated:

AWARDING AUTHORITY - means any person or entity that awards or enters into a service contract or subcontract as defined below.

CITY - means Jersey City.

COVERED LOCATION Shall mean any office complex, college, university or museum location of one hundred thousand (100,000) square feet or more or a residential building or complex with more than fifty (50) units. For the purposes of this Article, a covered office location shall mean (1) a single office building; or (2) a continuous, commonly owned office park; or (3) a group of office buildings that have common ownership and management, and are contiguous or have consecutive addresses.

PERSON - means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity that may employ employees or enter into a service contract.

SERVICE CONTRACT - means a contract between an awarding authority and an employer to provide security, janitorial, or building maintenance services at a covered location in the City.

**ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 3 (ADMINISTRATION OF GOVERNMENT) ARTICLE VI (DEPARTMENT OF ADMINISTRATION) OF THE JERSEY CITY MUNICIPAL CODE TO MANDATE A TRANSITION PERIOD FOR ALL BUILDING SERVICE EMPLOYEES**

**SERVICE EMPLOYEE** - means an individual employed as a non-supervisory and non-management building service employee, including a janitor, security officer, groundskeeper, doorman, building cleaner, janitor, porter, handyperson, superintendent, elevator operator, window cleaner, stationary fireperson or building engineer.

**SERVICE EMPLOYER** - means any person who employs service employees at a covered location, provided that it employs more than fourteen (14) service employees anywhere in the United States.

**SUCCESSOR SERVICE EMPLOYER** - means a service employer that is awarded a service contract to provide, in whole or in part, services that are substantially similar to those provided at the affected location(s) at any time during the previous 90 days or has purchased or acquired control of a property located in the City where service employees were employed at any time during the previous 90 days or terminates a service contract and hires service employees as its direct employees to perform services at the affected location(s) that are substantially similar within 90 days after a service contract is terminated or cancelled.

**B. Obligations of Awarding authorities.**

At least fifteen (15) days before terminating any service contract or entering into a service contract, an awarding authority must:

- (a) request the terminated service employer to provide Awarding the Authority and the successor service employer a list containing the name, date of hire, and job classification of each service employee working on the service contract;
- (b) give the successor service employer a list containing the name, date of hire, and job classification of each service employee currently performing the work to be performed under the service contract;
- (c) provide written notice to any collective bargaining representative(s) of the affected service employees of the decision to terminate the service contract and/or enter into a new service contract, including the identity of the successor service employer;
- (d) ensure that a written notice to all affected service employees describing the pending termination of the service contract and the employees' rights provided by this section is conspicuously posted at any affected work site.

**C. Successor service employers.**

- (a) subject to paragraph (c), each successor service employer must retain each affected service employee at a covered location for 90 days or until its service contract is terminated, whichever is earlier;
- (b) each successor service employer must give each affected service employee a written offer of employment and send a copy to the employee's collective bargaining representative, if any. Each offer remains effective for ten days after the notice is delivered;
- (c) each successor service employer may retain less than all of the affected service employees during the 90 day transition period if the successor employer:
  - (i) finds that fewer service employees are required to perform the work than the predecessor employer had employed;
  - (ii) retains service employees by seniority within each job classification;
  - (iii) maintains a preferential hiring list of those employees not retained; and

ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 3 (ADMINISTRATION OF GOVERNMENT) ARTICLE VI (DEPARTMENT OF ADMINISTRATION) OF THE JERSEY CITY MUNICIPAL CODE TO MANDATE A TRANSITION PERIOD FOR ALL BUILDING SERVICE EMPLOYEES

- (iv) hires any additional service employees from the list, in order of seniority, until all affected service employees have been offered employment;
- (d) except as provided in paragraph (c), a successor service employer may not discharge a service employee retained under this Section without just cause during the 90 day transition period;
- (e) At the end of the 90 day transition period, each successor service employer must give a written performance evaluation to each service employee retained pursuant to this section and offer continued employment to each service employee who receives a satisfactory evaluation.

D. Violations and penalties.

A covered employer responsible for violating this section may be punished as provided in Chapter 1, General Provisions, § 1-25, and the minimum fine for violating this section shall be not less than \$100. Fines awarded pursuant to this section shall be remitted to aggrieved employees to make them whole for losses sustained due to actions violating this ordinance to the extent feasible.

A covered employer shall not retaliate or discriminate against any person because s/he has asserted her/his rights under this ordinance.

An employee displaced or terminated in violation of this section may bring an action in any court of competent jurisdiction against the terminated contractor and/or the successor contractor for violations under this ordinance.

E. Severability.

If any provision of this Ordinance or application thereof to any person or circumstance is judged invalid, the invalidity shall not affect other provisions or applications of the Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

B. All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed.

C. This Ordinance shall be part of the Jersey City Code as though codified and fully set forth therein. The City shall have this Ordinance codified and incorporated in the official copies of the Jersey City Code.

D. This Ordinance shall take effect 20 days after enactment.

E. The City Clerk and the Corporation Counsel be and hereby are authorized and directed to change any chapter numbers, article numbers and section numbers in the event the codification of this Ordinance reveals that there is conflict between those numbers and the existing code.

NOTE: All new material is underlined; words ~~struck through~~ are omitted.  
For purposes of advertising only, new matter is **boldface** and repealed by *italics*.

JML/he  
4/20/16

APPROVED AS TO LEGAL FORM

APPROVED: \_\_\_\_\_

\_\_\_\_\_  
Corporation Counsel

APPROVED: \_\_\_\_\_  
Business Administrator

Certification Required   
Not Required