

AN ORDINANCE AMENDMENT OF THE NEW HAVEN BOARD OF ALDERMEN PROHIBITING UNFAIR DISCRIMINATION IN CITY HIRING POLICIES AGAINST PERSONS PREVIOUSLY CONVICTED AND PROVIDING A MECHANISM TO ENSURE THAT PERSONS AND BUSINESSES SUPPLYING GOODS AND/OR SERVICES TO THE CITY OF NEW HAVEN HAVE ADOPTED AND EMPLOY FAIR HIRING POLICIES AND PRACTICES THAT ARE CONSISTENT WITH THE CITY'S GOAL OF REMOVING OBSTACLES TO THE EMPLOYMENT OF PERSONS WITH PRIOR CONVICTIONS.

WHEREAS, in 2007, over 2,800 probationers resided in the City of New Haven and over 1,200 people were returned from the Connecticut Department of Corrections to the City of New Haven on parole or other form of early release; and

WHEREAS, background checks by employers have increased at a record rates, with 80% of large employers in the U.S. now screening their workers for convictions; and

WHEREAS, formerly incarcerated people represent a group of job seekers, ready to contribute and add to the work force; and

WHEREAS, research shows that lack of employment is a significant cause of recidivism; with people who are employed proving significantly less likely to be re-arrested; and

WHEREAS, the removal of obstacles to employment for people with prior convictions increases public health and safety by providing economic and social opportunities to a large group of people living in the city; and

WHEREAS, the City of New Haven has an obligation to act as a model employer to promote within itself the employment of people with prior convictions and to promote this employment to the private and non-profit sectors; and

WHEREAS the City of New Haven contracts for goods and services with hundreds of Vendors; who in turn employ thousands of employees; and

WHEREAS, the City of New Haven has a responsibility to ensure that its vendors have fair policies relating to the screening and identification of persons with prior convictions; and

WHEREAS, it is the intent and purpose of this ordinance to assist the successful reintegration of formerly incarcerated people back into the community by removing barriers to gainful employment after their release from prison; and

WHEREAS, it is the intent and purpose of this ordinance to enhance the health and security of the community by assisting people with conviction histories to reintegrate into the community and to provide for their families and themselves.

WHEREAS, it is the intent and purpose of this ordinance to ensure that the City of New Haven and its Vendors implement just and fair measures and practices when screening and identifying persons eligible for employment, regardless of whether they have had past convictions or arrests; and

WHEREAS, it is the intent and purpose of this ordinance to not have hiring policies that artificially limit the applicant pool by discouraging applicants with conviction histories from applying for city employment, which would undermine the City's goal to hire the best qualified applicants for City employment; and

NOW, THEREFORE, BE IT ORDAINED that the New Haven Code of Ordinances is amended as follows:

**Definitions.**

*Applicant* means any person considered for, or who requests to be considered for, employment by the City or by one of its Vendors.

*Awarding Authority* means any department, agency, or office of the City of New Haven that authorizes a Vendor to perform requested goods and/or services.

*City* means the City of New Haven or any department, agency, or office thereof, unless specifically excluded by this section.

*Conviction* means any sentence arising from a plea or verdict of guilty, including a sentence of incarceration, a suspended sentence, a sentence of probation or a sentence of unconditional discharge.

*Employment* means any occupation, vocation, job, or work for pay, including temporary or seasonal work, contracted work, contingent work and work through the services of a temporary or other employment agency; or any form of vocational or educational training with or without pay. Employment shall not, for the purposes of this section, include any positions at the New Haven Board of Education or membership in any sworn position.

*“Relationship to the job”* means the nature of criminal conduct for which the person was convicted has a direct and/or specific negative bearing on a person's fitness or ability to perform one or more of the duties or responsibilities necessarily related to the employment sought.

*“Otherwise Qualified”* means any Applicant who meets all other criteria for a position or consideration for a position.

*Vendor* means any vendor, contractor, or supplier of goods and/or services to the City of New Haven.

## **Prohibition Against Unfair Discrimination Against Persons Previously Convicted**

(1) Except as otherwise dictated by state and federal law, the City shall not inquire about an Applicant's conviction history until after it has been determined that the Applicant is otherwise qualified for the position. City job applications shall not contain a "box" or inquiry regarding a job applicant's prior convictions.

(2) After an applicant has been identified as otherwise qualified for the position, the City will offer a conditional offer of employment to the applicant, pending a conviction history check by the Human Resources Department. Prior to conducting any conviction history check on an Applicant, the City must provide standard written notification to the Applicant advising: (a) that a conviction history check is going to take place, (b) that he or she will have the opportunity to rebut a decision by the City should it decide to retract the conditional offer of employment, and (c) what kinds of specific evidence the Applicant can present during this rebuttal.

(3) If, as a result of a conviction history check, the City finds a valid reason to refuse, rescind, or revoke the offer of a position to an Applicant, then the City must immediately notify the Applicant of the potential adverse employment action, and provide the Applicant with a photocopy of the conviction history report with a highlight(s) of the particular conviction(s) that relates to the job's responsibilities, thus warranting a denial of employment.

(a) The Applicant or current employee shall have ten (10) business days, after receipt of notice and the photocopy of the conviction history report from the City, to respond to the City regarding the conviction history report. The City shall provide the Applicant with an opportunity to present information rebutting the accuracy and/or relevance of the conviction history report, including information pertaining to any of the factors listed in sub-paragraph (4), *infra*. The City must review all information and documentation received from the Applicant prior to taking any final action as to whether to hire said Applicant.

(4) In making a determination concerning a previous criminal conviction, the City shall consider the following factors:

(a) the nature of the crime and its relationship to the job for which the person has applied; and

(b) the information pertaining to the degree of rehabilitation of the convicted person; and

(c) the time elapsed since the conviction or release,

(d) Any information produced by the person, or produced on his behalf, in regard to his rehabilitation and good conduct;

(e) The age of the person at the time of occurrence of the criminal offense or offenses;

(f) The gravity of the offense(s);

(g) The public policy of this City, as expressed in this chapter, to encourage the employment of persons previously convicted of one or more criminal offenses.

(5) In no case may records of conviction which have been erased be used, distributed or disseminated, by the City or any of its agencies, or its vendors, in connection with employment, except as by dictated by law.

(6) In order to prevent discrimination against municipal employees in accordance with federal guidelines, any information pertaining to an applicant or employee's record of conviction obtained by the Human Resources Department in conjunction with the hiring process shall remain confidential within that Department, and shall not be used, distributed or disseminated, by the City or any of its agencies, or its vendors, to any other Department, entity or individual, except as dictated by law.

#### **Vendors.**

(1) The City of New Haven will do business only with Vendors that have adopted and employ conviction history policies, practices, and standards that are consistent with City standards outlined in this chapter.

(2) The Awarding Authority shall review all Vendors' criminal history policies for consistency with City standards. The Vendors' criminal history standards will be part of the criteria to be evaluated by the City as to whether to award a City contract. Further, the City will be able to evaluate a Vendor's execution of the criminal history standards as a part of the performance criteria of said City contract(s); the Awarding Authority, in consultation with the Office of Corporation Counsel and the Community Services Administration, shall consider any Vendor's deviation from these criminal history standards as grounds for rejection, rescission, revocation, or any other termination of the contract.

#### **Waiver.**

Under exigent circumstances, an Awarding Authority, by its highest ranking member, in consultation with the Office of Corporation Counsel and the Community Services Administration, may grant a Vendor a waiver of the criminal history standards on a contract-by-contract basis. A written record of the waiver shall be kept on file by the Awarding Authority, the Community Services Administration and the Office of Corporation Counsel, and shall also be submitted to the City of New Haven Commission of Equal Opportunities. The written record shall include, but not be limited to: (a) a

summary of the terms of the contract, (b) the details of the Vendor's failure or refusal to conform to the City's criminal history standards, and (c) a brief analysis of the exigency causing the grant of waiver.

No waiver may be considered perfected unless the Awarding Authority fully complies with the provisions of this sub-section.

### **Data Collection**

Any Awarding Authority, Vendor, Applicant or other interested party may contact the Community Services Administration to report any problems, concerns or suggestions regarding the implementation, compliance and impact of these sections, and the Community Services Administration shall log every comment received with a summary of the comment and shall keep on file any written comments. Subsequent to logging any comment the Community Services Administration shall refer all complaints to the Office of the Corporation Counsel and shall notify the relevant Awarding Authority of the complaint and any further investigation that the Community Services Administration in consultation with the Office of Corporation Counsel deems necessary or appropriate.

### **Severability.**

If any provision of these sections shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.