

**AN ORDINANCE BY COUNCILMEMBER KWANZA HALL, ANDRE DICKENS, NATALYN ARCHIBONG, JOYCE SHEPERD, MARY NORWOOD, KEISHA LANCE BOTTOMS, IVORY LEE YOUNG JR., FELICIA A. MOORE AND C.T. MARTIN AS SUBSTITUTED BY FINANCE/EXECUTIVE COMMITTEE AND AMENDED BY FULL COUNCIL TO SUPPORT THE BAN THE BOX PROGRAM BY ACTIVATING SECTIONS 114-53 THROUGH SECTION 114-56, FOR THE PURPOSE OF CODIFYING LANGUAGE REGARDING THE EMPLOYMENT OF EX-OFFENDERS WITH THE CITY OF ATLANTA; AND FOR OTHER PURPOSES.**

WHEREAS, individuals with criminal records suffer from pervasive discrimination in many areas of life, including when attempting to find employment; and

WHEREAS, employers have increased the use of background checks considerably, with the majority of large employers in the U.S. now screening their potential workers for prior convictions; and

WHEREAS, the City of Atlanta ("City") and Fulton County have 2,400 people returning home every year from Georgia's jails and prisons seeking employment; and

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

WHEREAS, eliminating obstacles to employment provides economic and social opportunities to a large group of the city's residents; and

WHEREAS, barriers to employment for formerly incarcerated people are significant factors in the creation of a permanent underclass that threatens the health of the community and weakens public safety; and

WHEREAS, the Ban the Box Program ("Ban the Box") is a national movement with the goal of increasing employment opportunities for individuals with prior criminal convictions by removing the question regarding prior criminal history from employment applications; and

WHEREAS, on February 21, 2013 the Commissioner of the Department of Human Resources issued a memorandum which confirmed a change to the City's application process to ensure potential applicants with background challenges are fully considered as they pursue employment opportunities; and

WHEREAS, under federal law, the Equal Employment Opportunity Commission prohibits the use of criminal records as a measure to exclude an applicant from employment without considering the following four (4) factors:

- (1) Whether the applicant committed the offense (if only an arrest);

- (2) The nature and gravity of the offense;
- (3) The time since the offense; and
- (4) The nature of the job for which the applicant has applied

WHEREAS, it is the intent and purpose of this ordinance to codify this language into the City's Code of Ordinances.

NOW THEREFORE, THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS AS FOLLOWS:

SECTION 1: City employment applications shall not contain a "Box" or inquiry regarding an applicant's prior criminal history.

SECTION 2: Except as otherwise provided by state and/or 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 for which he/she applied.

SECTION 3: That Chapter 114 ("Personnel"), Article III ("Equal Employment Opportunity"), Sections 114-53 through 114-56 of the City of Atlanta Code of Ordinances is hereby activated as follows:

Sec. 114-53. Definitions.

As used in this Chapter the following terms have the following meanings:

- (1) "Applicant" means any person considered or who requests to be considered for employment by the City of Atlanta.
- (2) "City agency" means any office, department, agency, board or commission of the City of Atlanta.
- (3) "Employee" means all persons engaged in the operation or conduct of any business, whether as owner, any member of owner's family, partner, associate, agent, manager, or representative, and any and all other persons engaged or employed in said business.
- (4) "Employment" means any occupation, vocation, job, work for pay or employment, including temporary or seasonal work, contracted work, contingent work and work through the services of a temporary or other employment agency. "Employment" shall not, for the purposes of this Chapter, include membership in any law enforcement agency.
- (5) "Conviction" means any sentence arising from a verdict or plea of guilty or nolo contendere, including a sentence of incarceration, a suspended sentence, a sentence of probation or a sentence of unconditional discharge.
- (6) "Inquiry" means any direct or indirect conduct intended to gather information, using any mode of communication.

(7) "Interview" means any direct contact by the employer with the applicant, whether in person or by telephone, to discuss the employment being sought or the applicant's qualifications.

Sec. 114-54. Ban-the-Box.

In connection with printed and/or on-line employment application forms of the City, it shall be an unlawful discriminatory practice for them to contain a "Box" or inquiry regarding an applicant's prior criminal history.

Sec. 114-55. Unlawful Discriminatory Practice - Ex-Offenders.

To prohibit unfair discrimination against persons previously convicted of one or more criminal offenses:

- (a) In connection with the licensing or employment of any person, it shall be an unlawful discriminatory practice for the City to make any inquiry regarding or to require any person to disclose or reveal any criminal conviction(s) during the application process. The application process shall begin when the applicant inquires about the employment being sought and shall end when an employer has accepted an employment application.
- (b) It shall further be an unlawful discriminatory practice for the City to make any inquiry regarding, or to require any person to disclose or reveal any criminal convictions against such person before and during the second interview.
- (c) Prior to an applicant being selected for hire with the City, a background check and drug test is required for consideration of employment.

Sec. 114-56. Adverse Employment Decision - Ex-Offenders.

Once the applicant has been deemed qualified for the position for which he/she applied, the City may then inquire into the applicant's criminal history. If the City makes an adverse employment decision, including, but not limited to, the refusal, rescission, or revocation of a conditional offer of employment, or termination of employment, after the criminal history inquiry is conducted, the City shall within a reasonable period of time, not to exceed thirty days:

- (a) notify the applicant of the adverse employment decision; and
- (b) provide the applicant with a photocopy of the results of the criminal inquiry, indicating the particular conviction(s) that relate(s) to the position's responsibilities.

Sec. 114-57. Dissemination of Criminal History.

Any information obtained by the City that pertains to an applicant's criminal history:

- (a) shall remain confidential;
- (b) shall only be shared with individuals that have a need to know the contents for the purpose of evaluating candidates or employees in a manner consistent with this section, except as dictated by law;

- (c) shall not be used, distributed, or disseminated by the City for any use other than those permitted under this policy; and
- (d) shall not be used, distributed, or disseminated by the City to any other entity or individual, except as dictated by state or federal law.

Sec. 114-58 Exemptions.

The City hiring for positions where certain convictions or violations are a bar to employment in that position under state or Federal law, including but not limited to positions that involve work with children and positions in law enforcement, shall not be constrained from asking questions about those convictions or violations.

Secs. 114-59-114-75. Reserved.

SECTION 4: All ordinances in conflict herewith are hereby waived for purposes of this Ordinance only, and only to the extent of said conflict.

A true copy,

*Rhonda Daughin Johnson*  
Municipal Clerk

ADOPTED as amended by the Atlanta City Council  
APPROVED as per City Charter Section 2-403

OCT 06, 2014  
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