

**ORDINANCE**  
**CITY OF NEW ORLEANS**

**CITY HALL: August 23, 2018**

**CALENDAR NO. 32,382**

**NO. \_\_\_\_\_ MAYOR COUNCIL SERIES**

**BY: COUNCILMEMBER  CASLESON PALMER**

**AN ORDINANCE** to amend and reordain Section 2-8 and to ordain Section 2-13 of the Code of the City of New Orleans; to extend fair chance hiring standards to persons, corporations, and entities in a contract, cooperative endeavor agreement, or grant with the City; and to establish fair chance hiring standards in the City of New Orleans, relative to employment by the City, by limiting the consideration of criminal history of an applicant; and to provide otherwise with respect thereto.

**WHEREAS** persons with criminal records suffer from pervasive discrimination in many areas of life, including employment, housing, education, voting, and eligibility for social benefits; and

**WHEREAS** according to the United States Bureau of Justice Statistics, about 100 million people nationwide have criminal records and report to experience lifelong discrimination due to their prior convictions; and

**WHEREAS** about 1.8 million people in Louisiana and 10,000 people in New Orleans are estimated to have criminal records and be exposed to such discrimination; and

**WHEREAS** people of color are overrepresented in the criminal justice system, meaning they are especially burdened by employment discrimination connected to having a criminal record; and

**WHEREAS** criminal background checks by employers have increased at a record rate, according to Step Up Louisiana, with a vast majority of U.S. employers now screening their workers for criminal records; and

**WHEREAS** people who have formerly offended represent a group of job seekers able to participate in the workforce; and

**WHEREAS** obstacles to employment for people with criminal records may contribute to recidivism, given that people who are employed are significantly less likely to be re-arrested, thereby undermining public safety and individuals' ability to successfully re-enter and thrive in the community; and

**WHEREAS** the City of New Orleans is committed to recruiting a broad, diverse, and skilled workforce, and wishes to safely remove barriers that impede otherwise qualified individuals from obtaining employment within Departments of the City of New Orleans and certain private employers contracted to perform work for the City; and

**WHEREAS** this ordinance is intended to give a person with a criminal record the opportunity to be judged on his or her own merits during the application process, at least until the completion of one interview, and should not be construed to limit the employer's ability to choose the most qualified and appropriate applicant for a position; **NOW, THEREFORE**

**SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY**  
**ORDAINS,** That Section 2-8 of the Code of the City of New Orleans is hereby amended and reordained to read as follows:  
**"Sec. 2-8. Contracts, cooperative endeavor agreements, and grants not to be awarded to parties owing delinquent taxes to the city or who have a felony conviction.**

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(d) In addition to the prohibition provided in subsection (c), it shall also be unlawful for the mayor, the president of the city council, or any designee of either the mayor or the president to execute a contract or cooperative endeavor agreement with, or award any grant to, any person, corporation, or entity that fails to indicate compliance with the hiring practices provided in Section 2-13 of this Code, or provide written reasons why deviation from Section 2-13 is necessary. All contracts, cooperative endeavor agreements, and grant agreements shall provide a sworn statement relative to the requirement that the person, corporation, or entity responsible for executing the contract or agreement, or providing the service provided for therein, is compliant with the provisions of this subsection. No payment shall be made under any new or renewal contract, cooperative endeavor agreement, or grant unless the recipient is compliant with this subsection.

(e) If a contract is awarded and is found to be in violation of this section, said contract shall be voidable.

(f) The Chief Administrative Office shall produce a report annually of all city contracts, cooperative endeavor agreements, and grants executed or renewed within the year, confirming that they are in compliance with this section.

(g) Exceptions. The provisions of this section shall not apply to:

(1) Donations to the city;

(2) Immovable property transactions which are conducted at public auction, not including leases of property;

(3) Agreements with federal or state governmental entities and/or the various agencies/political subdivisions thereof;

(4) Legal claims resolutions; or

(5) Contracts to satisfy emergency needs during a declared state of emergency.”

**SECTION 2.** That Section 2-13 of the Code of the City of New Orleans is hereby ordained to read as follows:

**“Sec. 2-13. Review of Employment Candidates’ Criminal History.**

(a) Applicants to the City of New Orleans, for both classified and unclassified positions, will be considered for employment opportunities based on the merits of their skills and experience related to the position for which they are applying. The hiring department or office (hereafter “hiring department”) will conduct interviews of qualified individuals prior to requesting a criminal background check, and no job application submitted prior to such interview shall inquire into an applicant’s criminal history. This policy is known as “Ban the Box”.

(b) For all positions, the job announcement, recruitment information, and position description shall provide the following information: “The hiring department will conduct interviews of qualified individuals prior to requesting a criminal background check, and no job application submitted prior to such interview shall inquire into an applicant’s criminal history. If this position is subject to a background check for any convictions related to its responsibilities and requirements, employment will be contingent upon successful completion of a background investigation including criminal history. Criminal history will not automatically disqualify a candidate.”

(c) Following the appropriate recruitment procedure for classified and unclassified personnel, the hiring department will conduct interviews, select up to three applicants per position, and send an authorization to release information form to each applicant

22 following the interview. An enclosure letter to accompany the form informs the applicant  
23 that a criminal background check will occur, asks the applicant to disclose any prior  
24 convictions, and notifies the applicant that he or she will receive a copy of any report  
25 received by the City. Other processes shall be as provided in CAO Policy Memorandum  
26 129, issued January 10, 2014.

27 (d) The hiring department shall not consider the following criminal records in its review of  
28 the criminal background check:

29 (1) Records of arrest or charges not followed by a valid conviction;

30 (2) Sealed, dismissed, or expunged convictions;

31 (3) Misdemeanor convictions where no jail sentence may be imposed; or

32 (4) Non-felony convictions committed when the applicant was younger than 18 years  
33 old, regardless of whether they have been expunged.

34 (e) If the applicant's criminal history contains information that may be the basis for a  
35 decision not to hire the individual, the hiring department shall provide the applicant with  
36 an opportunity to respond and submit evidence that the information is inaccurate or that  
37 mitigation or rehabilitation has occurred since the conviction. The hiring department shall  
38 hold the position open for at least 10 business days after notifying the applicant of such  
39 opportunity for response, at which time the hiring department may make a final  
40 employment decision using any supplemental information provided by the applicant to  
41 consider the nature of the crime, the time elapsed, the nature of the job, and mitigating  
42 factors, including those recommended by the U.S. Equal Employment Opportunity  
43 Commission in guidance document number 915.002.

44 (1) Evidence of mitigation or rehabilitation may be established by the passage of time

45 since the offense or release from incarceration without any subsequent arrest or  
46 conviction; compliance with terms and conditions of probation or parole;  
47 completion of mandatory or voluntary drug or alcohol treatment programs, if  
48 relevant; and documentation of current fitness or suitability for the position,  
49 including but not limited to letters of reference, certificates of program  
50 completion, or records of educational attainment.

51 (f) When an applicant is not chosen for a position, the applicant shall be informed of the  
52 final hiring decision and that he or she may be eligible for other positions with the City of  
53 New Orleans.

54 (g) Any information pertaining to an applicant's background check obtained in connection  
55 with the hiring process shall remain confidential and shall not be used, distributed, or  
56 disseminated by the hiring department, except as otherwise required by law.

57 (h) The Chief Administrative Office (hereafter "enforcement agency") is authorized to  
58 enforce this section and oversee complaints from persons denied employment in violation  
59 thereof.

60 (i) The hiring department shall maintain a record of completed application forms, criminal  
61 background checks, and any supplemental information provided by an applicant for a  
62 minimum of three years, and shall provide the enforcement agency with access to such  
63 records to monitor compliance with this section.

64 (j) The enforcement agency shall annually conduct an audit of the City's hiring practices to  
65 review compliance with this section, and shall provide an annual report to the Chair of  
66 the City Council's Governmental Affairs Committee summarizing the findings and any  
67 recommendations.

68 (k) This section shall not apply to any hiring conducted during an emergency, or for  
69 positions in the New Orleans Police Department, New Orleans Fire Department, or the  
70 New Orleans Aviation Board.”

**ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS** \_\_\_\_\_

\_\_\_\_\_  
**PRESIDENT OF THE COUNCIL**

**DELIVERED TO THE MAYOR ON** \_\_\_\_\_

**APPROVED:**

**DISAPPROVED:** \_\_\_\_\_

\_\_\_\_\_  
**MAYOR**

**RETURNED BY THE MAYOR ON** \_\_\_\_\_ **AT** \_\_\_\_\_

\_\_\_\_\_  
**CLERK OF COUNCIL**

**ROLL CALL VOTE:**

**YEAS:**

**NAYS:**

**ABSENT:**

**RECUSED:**