ORDINANCE NO. _____, SERIES 2014

AN ORDINANCE PROHIBITING THE CITY AND ITS VENDORS FROM ENGAGING IN HIRING POLICIES AND PRACTICES AGAINST PERSONS PREVIOUSLY CONVICTED OF CRIMES AND PROHIBITING THE PLACEMENT OF A "CHECK THE BOX" ON CITY JOB APPLICATIONS BY PERSONS HAVING CRIMINAL CONVICTIONS (Amended by Substitution *As Amended*).

Sponsored By: Council Members Attica Scott, Barbara Shanklin, Mary Woolridge, David Tandy, Cheri Bryant Hamilton, David James, Tina Ward-Pugh, Rick Blackwell

WHEREAS, in 2012, the United States Equal Employment Opportunity Commission ("EEOC") issued guidelines urging employers to take into consideration when evaluating job applicants, to consider such factors like: the crime committed, how much time has elapsed since conviction and its relation to an applicant's potential job; in addition states and municipalities that have enacted "ban-the-box" type legislation, have enumerated and adopted a number of similar factors to take into consideration when considering to hire an applicant who is an ex-offender.

WHEREAS, in keeping with the principles of rehabilitation of society's criminal offenders and restorative justice, to ameliorate the effects of massive unemployment amid widespread incarceration, and in an attempt to improve employment prospects in communities, it seems only fair, reasonable, just, and proper that the Louisville Metro Government adopt similar policies in line with other governing bodies throughout the nation to assist in restoring ex-offenders to a productive life in society, rather than relegating our neighbors to a life of unending retribution; and

WHEREAS, there are approximately *over* 160,000 individuals in Metro Louisville, that have incidents on their criminal record that currently prevent them from gaining suitable employment; and

WHEREAS, it has been the practice of Louisville Metro Government, by and through its Human Resources Department, not to allow an employment applicant's past criminal history to be a sole determinate for gaining employment with Louisville Metro Government; and

WHEREAS, it is the desire of Louisville Metro Government to be a leader by example for other business entities that contract with Louisville Metro, and encourage them to adopt hiring practices similar to national and local business chains that have adopted similar type practices.

WHEREAS, it is the intent of Louisville Metro Government to undertake steps to remove potential barriers for individuals with criminal records and who have fully completed their sentences to enter the workforce, and to codify the practice of Louisville Metro Government, by and through its Human Resources Department, not to allow an employment applicant's past criminal history to be a sole determinate for gaining suitable employment.

BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:

SECTION I: New sections of LMCO Chapter 112 are hereby created as follows:

§ 112.30 Prohibiting the City or its Vendors from Engaging in Certain Hiring Policies and Practices Against Persons Previously Convicted of Crimes

SECTION II: LMCO § 112.30(A) is created as follows:

A) *Definitions*. For purposes of this section, the following definitions shall apply:

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

2) "Appointing Authority"- The Office of the Executive, an Elected Official, a Metro Officer or Metro Agency, having the authorized authority to appoint persons to employment positions within Metro Government.

3) "Awarding Authority"-means any department, agency, or office of the City that

powered by Legistar™

authorizes a Vendor to perform requested goods and/or services.

4) "City"-means the Louisville Metro Government or any department, agency or office thereof unless specifically excluded by this section.

5) "Conviction"-means any sentence arising from a plea or verdict of guilty that was entered in a court of law, which may include a sentence of incarceration, a suspended sentence, a sentence of probation or a sentence of unconditional discharge.

6) "Employment"-means any occupation, vocation, job, or work for pay, including temporary or seasonal work, contracted work, contingent work, internship; or any form of vocational or educational training with or without pay. Employment shall not, for purposes of this section, include any appointed or sworn positions within the City.

7) "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.

8) "Otherwise Qualified"-means any Applicant who meets all other criteria for a position of employment.

9) "Vendor" "-means any person entity, contractor, or supplier of goods and/or services valued at $2,500 or more to Louisville Metro Government.

10) "Sole Source Contract"-The only capable supplier of a commodity or service within a reasonable geographic area of Metro Louisville.

11) "Federal, State and Cooperative Contracts"-Contracts in which Louisville Metro Government can use for volume savings on products, vehicles and required accessories and supplies.

SECTION III: LMCO § 112.30(B) is created as follows:

B) General Provisions

1) Except as otherwise provided 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 an applicant's prior convictions and applicants shall not be required to check or otherwise fill in a "box" or inquiry regarding an applicant's prior criminal conviction(s).

2) If an Applicant reaches the final stages of consideration for hire, the City shall notify the Applicant that a criminal background check *will* may be conducted, at which time the Applicant will be given an opportunity to inform Louisville Metro of any criminal background history that the Applicant may have.

3) 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 their behalf, in regard to their 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 probation or parole status of the Applicant;

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

SECTION IV: LMCO § 112.30(C) is created as follows:

C) Exceptions:

1) The requirements under this section are not applicable to the following employment categories and the City may inquire about an Applicant's conviction history before a conditional offer of employment:

a) Employment that involves the transfer and handling of cash amounts in excess of $500 or that involve major fiduciary responsibilities (e.g.- employees charged with investing City funds, accounting, auditing, etc.).

b) Employment that involves access to confidential information, including but not limited to, social security numbers, bank account information, credit card information, or other combination of information that could be used for identity theft or related criminal activity.

c) Employment that involves or may involve unsupervised access to children or minors under the age of sixteen (16), developmentally disabled persons or vulnerable adults.

d) Positions with unsupervised access to homes of residents, in which they work alone without direct supervision or they do not work in pairs or in teams of employees.

e) Senior leadership positions (e.g.-the Office of the Executive, Appointing Authority or senior managers reporting to the Appointing Authority).

f) Civil Service or Merit employees, as defined under Kentucky law, or any other similar type employment as prohibited by state and Federal law.

g) Louisville Metro Police Department, sworn and civilian

h) Louisville Fire Department, sworn and civilian

i) Louisville Metro Department of Corrections, sworn and civilian

j) Emergency Management Agency/Metrosafe

k) Emergency Medical Services

l) Youth Detention Services

m) Criminal Justice Commission

n) Employment positions or categories as may be required by law

SECTION V: LMCO § 112.30(D) is created as follows:

D) Vendors

1) ~~The City prefers to do business with~~ Vendors ~~that have adopted and employ~~ who apply for business with the City, must follow adopted and employ conviction history policies, practices and standards that are consistent with the City's standards outlined in this chapter, including the practice that initial Vendor employment applications not contain a "box" or a question of inquiry on the initial application regarding an applicant's prior criminal history and applicants shall not be required to check or otherwise fill in a "box" or respond to an inquiry regarding an applicant's prior criminal history on the Vendor's initial employment application, unless as otherwise provided by or required by state and Federal law.

2) The standards established in this chapter and said criminal history policies shall be a part of the *performance* evaluation criteria when awarding City contracts. The City shall retain at all times the authority to deny, rescind, revoke, *or* terminate or not renew a contract with a Vendor for failing to comply with the standards established in this chapter.

3) Exceptions:

a) The requirements under this section are not applicable to the following employment categories and Vendors shall may inquire about an Applicant's conviction history before

powered by Legistar™

a conditional offer of employment:

1. 1. Employment that involves the transfer and handling of cash amounts in excess of $500 or that involve major fiduciary responsibilities (e.g.- employees charged with investing funds, accounting, auditing, etc.).
2. 2. Employment that involves access to confidential information, including but not limited to, social security numbers, bank account information, credit card information, or other combination of information that could be used for identity theft or related criminal activity.
3. 3. Employment that involves or may involve unsupervised access to children or minors under the age of sixteen (16), developmentally disabled persons or vulnerable adults.
4. 4. Positions with unsupervised access to homes of residents, in which they work alone without direct supervision or they do not work in pairs or in teams of employees.
5. *Senior leadership positions (e.g.-the Office of the Executive, Appointing Authority or senior managers reporting to the Appointing Authority).*
6. *Civil Service or Merit employees, as defined under Kentucky law, or any other similar type employment as prohibited by state and Federal law.*

5. *Louisville Metro Police Department, sworn and civilian.* Any company or procurement that is prohibited by Federal, state and/or local law from hiring an individual with a felony. which requires an Applicant's conviction history.

7.

6. *Louisville Fire Department, sworn and civilian* Sole Source Contracts.

8.

7. *Louisville Metro Department of Corrections, sworn and civilian* Sundry items and required

powered by Legistar™

advertising as determined by Kentucky Revised Statute as not being practical or feasible to bid.

9.

8. *Emergency Management Agency/Metrosafe* Federal and state funded projects for bid through which Federal or state government procurement processes stipulate that initial application criminal background inquiries are required.

10.

9. *Emergency Medical Services* Any pass through Federal and/or state government grants and/or Federal and/or state, local program payments or mandates.

11.

10. *Youth Detention Services* Federal, State and Cooperative Contracts.

12.

13. Criminal Justice Commission

*14. 7.*11. Employment positions or categories as may be required by law.

SECTION VI: LMCO § 112.30(E) is created as follows:

E) Any applicant for a position of employment with the city or a vendor of the city who is subject to this law may file a complaint with the Human Relations Commission within thirty (30) days after receiving an application which ask the applicant to check a box or poses a question of inquiry regarding the applicants past criminal history.

SECTION VII: LMCO § 112.30(F) is created as follows:

F) Severability

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

SECTION VIII: This Ordinance shall take effect upon its passage and approval.

_____ H. Stephen Ott Metro Council Clerk

_____ Jim King President of the Council

powered by Legistar™

_____ _____

Greg Fischer Mayor Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

BY: _____

OrdinanceProhibitingHiringPoliciesandPracticesInvolvingEx-OffendersAmendmentbySubstitutionasAmended/ROC/kbb/acb 03.12.2014