

1 STATE OF GEORGIA
2 COUNTY OF FULTON
3 CITY OF SOUTH FULTON

4
5 **ORDINANCE No. 2019-004**
6

7 **AN ORDINANCE AMENDING TITLE 1, ADMINISTRATION, CHAPTERS 6 AND 9, OF**
8 **THE SOUTH FULTON CODE OF ORDINANCES; TO “BAN THE BOX”; TO HELP**
9 **ENSURE THAT ALL QUALIFIED PERSONS ARE CONSIDERED FOR CITY**
10 **EMPLOYMENT AND FOR OTHER PURPOSES ALLOWED BY LAW**

11
12 **(Sponsored by Mayor Pro Tem Mark Baker)**
13

14 **WHEREAS**, the City of South Fulton (“City”) is a municipal corporation duly
15 organized and existing under the laws of the State of Georgia;

16
17 **WHEREAS**, the City is charged with preserving the health, safety, and welfare of
18 its citizens;

19
20 **WHEREAS**, several state and local governments have enacted regulations to
21 protect prospective employees convicted of a crime from automatic disqualification
22 during the selection process;

23
24 **WHEREAS**, these regulations, known as “ban the box” laws prevent employers
25 from requesting a prospective employee's criminal history on employment applications;

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27 **WHEREAS**, the City Council finds that Ban the Box laws help to ensure that
28 qualified persons with criminal convictions are afforded employment opportunities;

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30 **WHEREAS**, the City wishes through this Ordinance to help ensure that qualified
31 persons with criminal convictions are afforded City employment opportunities; and

32
33 **WHEREAS**, the City desires to safeguard and promote the public health, safety,
34 and general welfare of all citizens through the adoption of this Ordinance.
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36 **THE COUNCIL OF THE CITY OF SOUTH FULTON HEREBY ORDAINS** as
37 follows:

38 **Section 1:** The City of South Fulton Code of Ordinances, Title 1, Administration,
39 Chapter 6, Municipal Employees, is hereby amended to include a new Section 1-6008,
40 Criminal Conviction Question for City Employees, which shall read as follows:

41 **TITLE 1: ADMINISTRATION**
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43 **CHAPTER 6. –MUNICIPAL EMPLOYEES**
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Sec. 1-6008 - Criminal Conviction Question for City Employees

A. Purpose; applicability.

- (a) The purpose of this section is to ensure that an individual who is qualified for a City position, but has a criminal conviction, is afforded the opportunity to apply, and be considered, for the City position.
- (b) This section is applicable to any individual who applies for employment with the City of South Fulton after the effective date of this section.

B. Prohibition on inquiry of consideration of criminal convictions for prospective City employees until interview or consideration.

Except as provided for below in section D of this code section, the City shall not inquire into or consider the criminal conviction of an applicant for employment with the City until the applicant is being interviewed or is otherwise qualified for employment by the City.

C. Revision of employment applications and notice required.

The City shall revise all City employment application forms to meet the intent of this section and to include the following notification on each application:

"The City of South Fulton is an equal opportunity employer. No applicant shall be discriminated against on the basis of race, color, creed, national origin, marital status, public benefit status, gender, sexual orientation, or other criteria prohibited by City, state, or federal law. In accordance with the City Code, criminal convictions are not a bar to City employment, provided, that the prior criminal activity is not directly related to the position being sought."

D. Exceptions to prohibition on inquiry of consideration of criminal convictions for City employment.

This section does not limit the right of the City:

- (1) To hire and/or fire at will;
- (2) To conduct criminal conviction background checks on applicants for positions where there is a statutory duty to do so, including inquiring on City employment applications whether there is a criminal conviction for those positions only;
- (2) To otherwise take into consideration during the hiring process a potential employee's criminal conviction; or
- (3) To notify applicants that laws and City policies will disqualify an individual with a particular criminal conviction from obtaining employment for particular positions based on the requirements of those positions.

Section 2: The City of South Fulton Code of Ordinances, Title 1, Administration, Chapter 9, Purchasing, Contracting and Disposition of Property, is hereby amended to

85 include a new Section 1-9005, Criminal Conviction Question for City Contractors, which
86 shall read as follows:

87
88 **TITLE 1: ADMINISTRATION**

89
90 **CHAPTER 9. – PURCHASING, CONTRACTING, AND DISPOSITION OF PROPERTY**

91 ...

92
93 **Sec. 1-9005 - Criminal Conviction Question for City Contractors**

94
95 **A. Purpose.**

96 The purpose of this section is to ensure that city contractors afford an individual who is
97 qualified for a position, but has a criminal conviction, the opportunity to apply, and be
98 considered, as an employee needed to fulfill the terms of its contract with the City.

99 **B. Applicability.**

100 (a) This section shall apply to all contracts, which the City enters into, whether for
101 goods or services and whether or not subject to competitive bid, where the contract
102 is for the amount of \$25,000.00 or more.

103 (b) This section shall not apply:

104 (1) To any employees who are hired by any city contractor in connection with
105 contracts for goods or services that are not provided to the City; or

106 (2) Cooperative and/or and emergency purchases.

107 **C. Prohibition by city contractor to inquire regarding criminal convictions of**
108 **applicant to fulfill city contract until being interviewed or qualified.**

109 (a) Except as provided for in section 18-5-84 of this Code, city contractors shall not
110 inquire or consider the criminal convictions of their applicants to be an employee
111 needed to fulfill the terms of its contract with the City until the contractor interviews
112 the applicant or determines that the applicant is qualified.

113 (b) It is the responsibility of a city contractor to ensure that each of its subcontractors
114 complies with this section.

115 **D. Exceptions to prohibition.**

116 This section does not limit the right of the city contractor or any of its subcontractors:

117 (1) To conduct criminal history background checks on applicants for positions
118 where there is a statutory duty to do so, including inquiring on the contractor's
119 employment application as to whether the applicant has a criminal conviction for
120 those positions only; or

121 (2) To notify applicants that laws and company policies will disqualify an individual
122 with a particular criminal conviction from employment in certain positions based
123 on the requirements of those positions.

124 **E. Contractor required to submit affidavit with copy of application; contractor to**
125 **verify compliance by subcontractors.**

126 (a) Prior to the submission of a contract to city council for approval, each contractor,
127 with which the city enters into a contract under this section, shall submit to the
128 finance department purchasing section, as part of its contract package, a completed
129 affidavit, which states under oath, that the contractor's hiring policy is in compliance
130 with this section with an attached copy of the contractor's application to hire
131 employees needed to fulfill the terms of the contract with the City. The affidavit shall
132 be on a form, which was prepared by the law department is provided to the
133 contractor by the finance department purchasing section.

134 (b) Whenever a city contractor utilizes a subcontractor to fulfill the requirements of its
135 contract with the City, the contractor shall provide documentation, as required in
136 subsection (a) of this section, for each of its subcontractors.

137 **F. Bid or proposal deemed non-responsive; contract in breach.**

138 (a) Where a bid or proposal fails to comply with this section, the bid or proposal is
139 deemed to be non-responsive.

140 (b) Where a contractor fails to comply with this section, the city may deem the
141 contract to be in breach.

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144 **Section 3.** It is hereby declared to be the intention of the Mayor and Council that:

145 (a) All sections, paragraphs, sentences, clauses and phrases of this Ordinance are or
146 were, upon their enactment, believed by the City Council to be fully valid, enforceable
147 and constitutional.

148 (b) To the greatest extent allowed by law, each and every section, paragraph,
149 sentence, clause or phrase of this Ordinance is severable from every other section,
150 paragraph, sentence, clause or phrase of this Ordinance. No section, paragraph,
151 sentence, clause or phrase of this Ordinance is mutually dependent upon any other
152 section, paragraph, sentence, clause or phrase of this Ordinance.

153 (c) In the event that any phrase, clause, sentence, paragraph or section of this
154 Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or
155 otherwise unenforceable by the valid judgment or decree of any court of competent
156 jurisdiction, it is the express intent of the City Council that such invalidity,
157 unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not
158 render invalid, unconstitutional or otherwise unenforceable any of the remaining
159 phrases, clauses, sentences, paragraphs or sections of the Ordinance.

160 **Section 4.** All ordinances and parts of ordinances in conflict herewith are hereby
161 expressly repealed.

162 **Section 5.** The city attorney and city clerk are authorized to make non-
163 substantive editing and renumbering revisions to this ordinance for proofing,
164 codification, and supplementation purposes. The final version of all ordinances shall
165 be filed with the city clerk.

166 **Section 6.** The effective date of this Ordinance shall be the date of adoption
167 unless provided otherwise by the City Charter or state and/or federal law.

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169 **Section 7. *Instruction to City Clerk.*** Unless vetoed, the City Clerk is hereby
170 directed to forward a copy of this Ordinance to all City employees.

171 The foregoing **ORDINANCE NO. 2019-004**, adopted on **January 22, 2019** was offered
172 by **Mayor Pro Tem Baker**, who moved its approval. The motion was seconded by
173 Councilmember **Jackson**, and being put to a vote, the result was as follows:

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175 **“SECOND READING”**

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	AYE	NAY
William “Bill” Edwards, Mayor	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mark Baker, Mayor Pro Tem	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Catherine Foster Rowell	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Carmalitha Lizandra Gumbs	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Zenobia Willis	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gertrude Naeema Gilyard	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rosie Jackson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
khalid kamau	<input checked="" type="checkbox"/>	<input type="checkbox"/>

194 THIS ORDINANCE adopted this 22nd day of January 2019. CITY OF SOUTH
195 FULTON, GEORGIA.
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200 "SECOND READING"
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207 WILLIAM "BILL" EDWARDS, MAYOR
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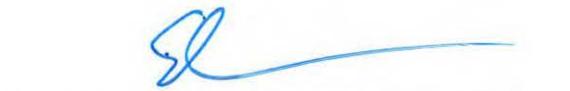
212 ATTEST:
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217 MARK MASSEY, CITY CLERK
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220 ITEM# Ord 2019-004 DATE 1/22/2019
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224 APPROVED AS TO FORM:
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228 EMILIA C. WALKER, CITY ATTORNEY
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