

Ordinance

Ordinance No. 83

OF THE
CITY OF ATLANTIC CITY, N.J.

Date. 12-07-2011
Date to Mayor. 12-22-2011

Approved as to Form and Legality on Basis of Facts Set Forth

Factual contents certified to by

Legislative Counsel Billie J. Moore, Esq.

Business Administrator /s/ Michael A. Scott

Prepared by the Legislative Counsel

Council Members GILLIAM & RANDOLPH Present the following Ordinance:

WHEREAS, "BAN THE BOX" is a national movement with the goal of increasing employment opportunities for individuals with prior criminal convictions, by removing questions regarding prior criminal history from employment applications; and

WHEREAS, many cities throughout the United States, including Boston, Chicago, Minneapolis, St. Paul, San Francisco, and Philadelphia have adopted new employment applications in support of the "BAN THE BOX" initiative; and

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

WHEREAS, research shows that the lack of employment is a significant cause of recidivism, while employed individuals are less likely to be re-arrested; and

WHEREAS, the removal of obstacles to employment for individuals with prior criminal convictions increases public health and safety, by providing these persons with economic and social opportunities; and

WHEREAS, the City of Atlantic City has an obligation to act as a model employer and not only employ individuals with prior convictions itself, but to promote this idea to the private sector as well; and

WHEREAS, the City of Atlantic City engages in contracts with numerous vendors, for goods and services, who in turn employ hundreds of individuals/employees; and

WHEREAS, the City of Atlantic City has the responsibility to ensure that the vendors it engages for contracts have fair policies, practices and standards relating to the screening and identification of individuals with prior criminal convictions; and

WHEREAS, it is the intend and purpose of this ordinance to assist in the successful reintegration of formerly incarcerated individuals back into the community by removing the barriers to gainful employment; and

WHEREAS, it is the intend and purpose of this ordinance to ensure that the City of Atlantic City and the vendors it engages for contracts implement just and fair measures and practices when screening and identifying eligible individuals for employment, regardless of whether they have prior convictions or arrests; and

WHEREAS, it is the intend and purpose of this ordinance to refrain from and eliminate hiring policies, practices and standards that artificially limit an applicant pool by discouraging individuals with prior convictions from applying for city employment, which in turn may undermine the City's goal of hiring the best qualified applicants for employment.

NOW THEREFORE BE IT ORDAINED, that:

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. After an applicant has been identified as otherwise qualified, the City shall offer a conditional offer of employment to the applicant, pending a background check. Prior to conducting a criminal history check, the City must advise the applicant, in writing, of the following:

- a. That a criminal history check will occur; and
- b. That the applicant will have the opportunity to rebut the City's decision to retract a conditional offer of employment; and
- c. The type of evidence the applicant may present during his/her rebuttal, in the event he/she is denied employment.

SECTION 4. The City shall consider the following factors when deciding to offer employment to an applicant with a prior criminal conviction (s):

- a. The nature of the crime and whether it relates in any way to the job for which the applicant has applied; and
- b. The degree of rehabilitation of the applicant; and
- c. The time elapsed since the applicant's conviction or release; and
- d. Any information produced by the applicant, or on his/her behalf, in regards to his/her rehabilitation and good conduct; and
- e. The age of the applicant at the time he/she committed the criminal offense (s); and
- f. The gravity of the offense (s); and
- g. The public policy of the City to encourage the employment of persons with prior criminal convictions, by the City and/or by the vendors the City engages for business.

SECTION 5. If, as a result of a criminal history check, the City finds a legitimate reason to deny, refuse, rescind or revoke a contingent offer of employment, the City must immediately notify the applicant of the reason for the adverse decision and provide the applicant with a photocopy of the criminal history report, highlighting the particular conviction (s) warranting the denial of employment.

a. The applicant shall have ten (10) business days, after receiving notice that he/she will not become employed by the City to respond to the City regarding his/her criminal history; and

b. The City shall provide the applicant with an opportunity to present information/evidence to rebut the accuracy and/or relevance of the criminal history information, including any information pertaining to the factors listed in SECTION 4 above; and

c. The City shall review any information submitted by the applicant prior to its decision to affirm or reverse its decision to deny, refuse, rescind or revoke a contingent offer of employment to the applicant.

SECTION 6. The City of Atlantic City shall only conduct business with vendors that have adopted and implemented policies, practices and standards, regarding an applicant's prior criminal history, that are consistent with the City's policies, practices and standards.

SECITON 7. The party responsible for awarding City contracts, shall review all vendors' policies, practices and standards for the hiring of applicants with prior criminal convictions to ensure that the vendors' practices, policies and standards are consistent with the City's policies, practices and standards.

SECTION 8. The vendors' policies, practices and standards on employing applicants with prior criminal convictions shall be made a part of the criteria to be considered by the City when awarding contracts.

SECTION 9. In the event any provision (s) of this ordinance is held to be invalid by a court of competent jurisdiction, such provision (s) shall have no force or effect on the remaining provisions.

December 22, 2011 9:13 AM

22-A

DO NOT USE SPACE BELOW THIS LINE

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RECORD OF COUNCIL VOTE ON FINAL PASSAGE													
COUNCIL MEMBER	AYE	NAY	N.V	A.B.	MOT.	SEC.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	MOT.	SEC.
DELGADO				X			MOORE	X					
GILLIAM	X					X	RANDOLPH	X				X	
MANCUSO	X						SMALL	X					
MASON				X			TIBBITT	X					
MARSH, PRESIDENT								X					
X-Indicates Vote NV-Not Voting AB-Absent MOT-Motion SEC-Second													

Adopted on first reading at a meeting of the Council of the City of Atlantic City, N.J. on ...DECEMBER 07, 2011.....

Adopted on second and final reading after hearing on.....DECEMBER 21, 2011.....

Approved By: [Signature] Date 12-23-11 Reconsidered Over
By Council.....Ride Aye Nay

This is a Certified True copy of the Original Ordinance on file in the City Clerk's Office.

[Signature] Assistant City Clerk