
INFORMAL STAFF REPORT TO MAYOR AND CITY COUNCIL

SUBJECT:

Implementation of a Fair Chance Hiring Ordinance of the City of Denton.

EXECUTIVE SUMMARY:

On February 4, 2025, Council Member McGee presented a two-minute pitch to consider an ordinance setting hiring standards to limit employers' consideration of criminal history on initial job applications.

BACKGROUND:

On June 6, 2023, Council Member McGee presented a 2-minute policy pitch to the Council requesting a fair chance hiring ordinance be brought to the Council at the next meeting for consideration and vote. The pitch received support from the Council and a proposed Fair Chance Hiring ordinance was brought forward for consideration on June 27, 2023. At that meeting, the Council postponed consideration of the ordinance until the first meeting in January 2024 and requested staff seek community and business feedback on the ordinance prior to that time. A public engagement period was held from October to December 2023.

On Jan. 9, 2024, a proposed Fair Chance Hiring ordinance was brought forward for consideration. Council postponed consideration of the ordinance for 120 days to allow for the Denton Chamber of Commerce to propose an alternative to an ordinance. The 120 days expired in May 2024, and the Chamber presented a proposed pilot program to Council at the June 4, 2024 Work Session. Council provided direction to the Chamber to proceed with the proposed program. The ordinance, postponed from January, was considered by Council at the June 4 Council meeting, and did not pass.

On December 3, 2024, staff provided an update on the Chamber's proposed plan, citing that the Chamber reported their program timeline had been temporarily impacted by the transition of the Convention and Visitors Bureau (CVB). The Chamber expressed intention to launch the program in early 2025.

DISCUSSION:

Fair Chance Hiring Overview

Fair chance hiring initiatives (also known as "ban the box" initiatives due to their goal of removing criminal history question boxes in job applications) generally refer to a policy or practice of not considering an applicant's criminal history in an employment application until later in the hiring process. This information is then typically obtained once a conditional offer has been made. Importantly, these initiatives and their related ordinances, do not limit the authority of an employer to withdraw an employment offer for a lawful reason.

According to National Employment Law Project (NELP), 37 states and 150 cities/counties enacted fair chance laws for themselves as public employers. Of these, 15 states and 22 cities/counties extend these to private employers. Most cities and counties listed with NELP as having enacted

fair chance hiring laws have only had those laws apply to their organization as an employer. An even greater number may utilize this practice outside of a formal ordinance, like the City of Denton.

In Texas, the following cities have enacted formal laws relating to fair chance hiring:

Applies Only to Organization	Applies Across Jurisdiction
Dallas County	City of Austin
City of San Antonio	City of DeSoto
Travis County	
Harris County	

Existing Laws and Statutes

Title VII of the Civil Rights Act of 1964, does not restrict employers from requesting criminal history information at any stage in the hiring process but they should be cautious that doing so does not have an adverse impact against a particular class of applicants. To avoid discrimination that denies equal employment opportunity to anyone on a protected basis, whether by intent or by unlawful disparate impact, employers conduct an individualized assessment of a candidate's criminal record and the position sought.

Additionally, some federal and state laws require a criminal background check to be performed for some positions. These include peace officers, Criminal Justice Information Services (CJIS) certifications, and certain positions in other sectors such as insurance, childcare, energy, etc. There is no requirement as to when a criminal background check should be performed under these statutes.

With respect to criminal history inquiries across all job types, no federal or State of Texas laws prohibit inquiring about an applicant's criminal history prior to a conditional employment offer, though the Equal Employment Opportunity Commission (EEOC) states that an employer that rejects *everyone* with a conviction from all employment opportunities is likely engaging in discrimination. Also, the EEOC states that an employment policy that rejects many more applicants of one race, national origin, or sex is discriminatory if the policy is not closely related to the job. The EEOC suggests employers consider waiting until later in the hiring process if they are going to ask criminal history questions.

Proposed Fair Chance Hiring Ordinance Structure

The ordinance presented incorporates fair chance hiring regulations into the current Comprehensive Non-Discrimination Ordinance (NDO), codified as Chapter 14, Article VIII of the code of ordinances. In this manner, employment protections already provided under the NDO would be extended to include persons with criminal histories under a new section. Additionally, new definitions specific to fair chance hiring would also be incorporated into the NDO. By including fair chance hiring regulations in the NDO, the same administrative and enforcement provisions would apply to fair chance hiring complaints in the same manner that they currently do for NDO complaints. Importantly, this would not add any protected classes to the NDO.

Regulated Fair Chance Hiring Practices

The fair chance hiring provisions prohibit employers from the following practices if they result in unlawful discrimination (whether such discrimination is intentional or through disparate impact):

1. Publishing information that states or implies that criminal history is an automatic disqualifier for employment
2. Soliciting or otherwise inquiring about criminal history on a job application
3. Soliciting criminal history information or considering criminal history prior to a conditional employment offer
4. Refusing to consider an applicant because criminal history was not provided prior to a conditional employment offer
5. Taking adverse action against an individual due to criminal history unless the individual is unsuitable for the job based on an individualized assessment

Staffing agencies may solicit criminal history information and perform an individualized assessment when the staffing agency has identified a job to which the individual will be employed or the individual is placed in a staffing pool.

Additionally, an employer who takes an adverse action based on criminal history must inform the individual in writing that the adverse action was based on the criminal history. The regulation also does not absolve the employer from any other federal or state requirements, as applicable, when withdrawing an offer of employment.

Applicability and Exclusions

The fair chance hiring regulations will apply to all employers in which the NDO is currently applied. This is generally all employers with 15 or more employees. Additionally, the same exemptions within the NDO would also be applied to the fair chance hiring regulations:

- Religious organizations
- The United States Government or its departments and agencies
- The State of Texas or its departments, agencies, and political subdivisions

An additional exemption specific to fair chance hiring regulations includes positions for which an individual may be disqualified based on criminal history under federal, state, or local law. This includes peace officers and certain positions in fields such as insurance, childcare, the energy sector, etc.

Administration and Enforcement

If fair chance hiring regulations are included in the NDO, all administrative and enforcement provisions currently applied to NDO complaints would also apply to fair chance hiring complaints. Just as the NDO directs that for complaints where the state or federal government has jurisdiction, those complainants be referred to those entities, fair chance hiring complainants will be referred to the Equal Employment Opportunity Commission or other applicable state or federal agency. Should such federal or state agency determine it does not have jurisdiction to investigate the complaint, the City may perform an investigation using the processes under the NDO. Since the

NDO's discrimination regulations are the same as the EEOC, if the EEOC determines it has no jurisdiction, the City will almost certainly defer to the EEOC jurisdiction determination.

As with the NDO, staff has included a 120-day delay in the effective date of the ordinance to communicate the provision of the ordinance to the community.

Public Feedback and Engagement

At the June 27, 2023, City Council meeting, the Council postponed consideration of the ordinance until the first meeting in January 2024 and requested staff seek community and business feedback on the ordinance prior to that time. Staff began the engagement period in early October 2023 with feedback and input being accepted through Dec. 5, 2023.

During this period, staff conducted three (3) in-person listening sessions, two (2) virtual listening sessions, and hosted a Discuss Denton project page. On the Discuss Denton page (www.discussdenton.com/fairchancehiring), members of the public were able to review information and FAQs on the proposed Fair Chance Hiring ordinance, leave comments, ask questions to be answered by staff, and voice their support or opposition for the proposed ordinance. Additionally, a public hearing was held at the Dec. 5, 2023, City Council meeting where members of the public gave live feedback directly to the City Council.

A complete report of the feedback and input received was provided to the Council on Dec. 22, 2023 (**attached**).

CONCLUSION:

Upon receipt of the Informal Staff Report, Council Member McGee may indicate if the information provided satisfies their request. Should the request not be satisfied, the item will be considered by the Agenda Committee for placement on a future Work Session agenda or routing through an appropriate board, commission, or committee.

ATTACHMENTS:

1. Fair Chance Hiring Detailed Engagement Report (December 2023)
2. Proposed Ordinance (January 2024)
3. Comprehensive Non-Discrimination Ordinance

STAFF CONTACT:

Kristi Fogle
Chief of Staff
Kristi.Fogle@cityofdenton.com
(940) 349-8565

REQUESTOR: Council Member McGee

STAFF TIME TO COMPLETE REPORT: 2.5 hours

PARTICIPATING DEPARTMENTS: City Manager's Office, Legal

Project Report

20 April 2021 - 11 December 2023

Discuss Denton Fair Chance Hiring



Visitors Summary

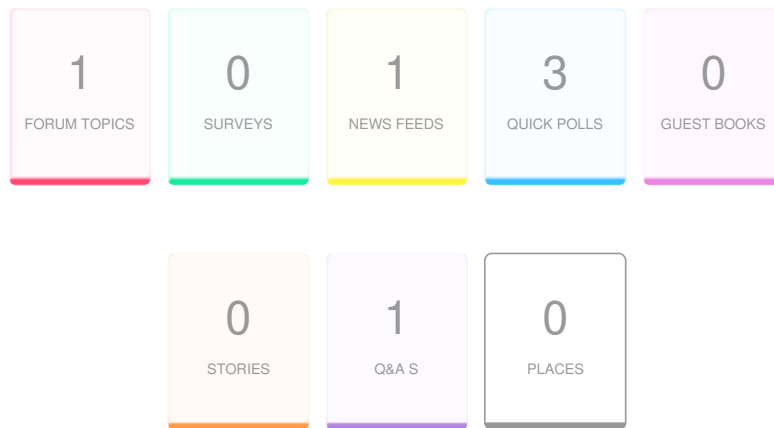


Highlights

TOTAL VISITS	MAX VISITORS PER DAY	
512	47	
NEW REGISTRATIONS		
28		
ENGAGED VISITORS	INFORMED VISITORS	AWARE VISITORS
39	140	398

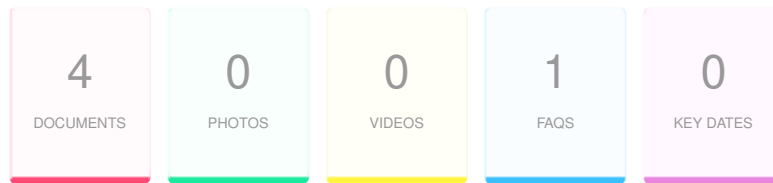
Aware Participants		398		Engaged Participants		39					
Aware Actions Performed		Participants		Engaged Actions Performed		Registered		Unverified		Anonymous	
Visited a Project or Tool Page		398									
Informed Participants		140		Contributed on Forums		22		0		0	
Informed Actions Performed		Participants		Participated in Surveys		0		0		0	
Viewed a video		0		Contributed to Newsfeeds		0		0		0	
Viewed a photo		0		Participated in Quick Polls		29		0		0	
Downloaded a document		18		Posted on Guestbooks		0		0		0	
Visited the Key Dates page		16		Contributed to Stories		0		0		0	
Visited an FAQ list Page		27		Asked Questions		4		0		0	
Visited Instagram Page		0		Placed Pins on Places		0		0		0	
Visited Multiple Project Pages		71		Contributed to Ideas		0		0		0	
Contributed to a tool (engaged)		39									

ENGAGEMENT TOOLS SUMMARY



Tool Type	Engagement Tool Name	Tool Status	Visitors	Contributors		
				Registered	Unverified	Anonymous
Forum Topic	Fair Chance Hiring Ordinance Feedback	Published	74	22	0	0
Newsfeed	New FAQ - Does the ordinance require a business to hire s...	Published	1	0	0	0
Qanda	Submit a Question	Published	28	4	0	0
Quick Poll	Do you support the proposed Fair Chance Hiring Ordinance?	Published	30	29	0	0
Quick Poll	Do you live or work in Denton?	Published	4	4	0	0
Quick Poll	What best describes you?	Published	4	4	0	0

INFORMATION WIDGET SUMMARY



Widget Type	Engagement Tool Name	Visitors	Views/Downloads
Faqs	faqs	27	32
Key Dates	Key Date	16	26
Document	Proposed Fair Chance Hiring Ordinance.pdf	14	18
Document	Public Meeting Presentation	12	14
Document	Fair Chance Hiring Ordinance Public Input Flyer.pdf	8	8
Document	City of Denton Comprehensive Non-Discrimination Ordinance	7	8

FORUM TOPIC

Fair Chance Hiring Ordinance Feedback

Visitors 74			Contributors 22	CONTRIBUTIONS 95
15 October 23 Liam Gaume-Wakefield			This must be done because how can expect people to reintegrate society if they can't get a job.	
AGREES 3	DISAGREES 2	REPLIES 0		
16 October 23 Dave Collins			This is not a municipal concern. This would be a state legislature concern. My personal opinion is the city has no business trying to tell a business that they are prohibited from protecting their personnel and property by screening applicants.	
AGREES 7	DISAGREES 1	REPLIES 1		
18 October 23 Lincoln			You have no business forcing businesses to hire ex cons. You are adding costs to businesses.	
AGREES 3	DISAGREES 2	REPLIES 0		
19 October 23 kevans14			It seems to me that once someone has served their time, the punishment should be over. Ex-cons should be able to move on with their lives and improve themselves and society after paying for their crimes. I would be in favor of the 'fair chance' initiative. I see other comments talking about 'forcing' businesses to hire ex-cons, but that misrepresents what's going on. The idea is not to force any hire. It's just to Not force ex-cons to have to identify as having been convicts. Businesses can hire who they want, on the merits, but will do so without necessarily knowing a person's previous convict status. Do I have that right?	
AGREES 2	DISAGREES 1	REPLIES 0		
23 October 23 kevans14			Although I am in favor of the 'Fair Chance' ordinance in principle, I think you raise an interesting point about what level of government this should happen within. Maybe this should even be a federal concern... but why necessarily should it be a city concern? Again, I'm in favor, but it's a good point you raise.	
AGREES 1	DISAGREES 0	REPLIES 0		

FORUM TOPIC

Fair Chance Hiring Ordinance Feedback

26 October 23 KW			Do not think this is fair to smaller business. The cost and time put in for interviews, then finding out after the fact that someone does not fit, possible missing out on some one who was a better fit.
AGREES 4	DISAGREES 1	REPLIES 0	
26 October 23 KW			If you have a business' that has lots of children and hires young teenagers, seems you would want to know if they had a sexual conviction.
AGREES 3	DISAGREES 0	REPLIES 0	
26 October 23 Lazarus			While I think that low level misdemeanors and small convictions could be seen as a hindrance to people looking to get hired, because people have a unfair vision of anyone who has a conviction. But higher and more dangerous convictions should be disclosed to protect workers and others.
AGREES 4	DISAGREES 0	REPLIES 0	
02 November 23 S Hunt			I want to thank city staff for doing their due diligence to develop this ordinance. I think that the ordinance effectively addresses a critical obstacle to citizens who are earnestly working towards gainful employment while putting criminal history behind them. People need to work and employers have many jobs that need to be filled. Not all laws or legal processes are just and not all punishments fit the crime. Our justice system is imperfect. The stigma of having a criminal background is heavy no matter how minor the crime. When people are unable to obtain an honest living due to discrimination, they have no choice but to pursue dishonest means of providing for themselves and their dependents. This ordinance doesn't compel any employer to hire ex-cons. I only wish there were a way to help more citizens come to this discussion with a better understanding of the realities of the hiring process, and without the fear-based misconception that a municipality would somehow be motivated to coerce employers to hire former criminals against their wishes. Comments to the effect of the city being the wrong level of government to address the issues strike me as NIMBY-ism. I think that should this ordinance be adopted and the local unemployment rate decrease, Denton will be well-regarded for its leadership and visionary approach.
AGREES 0	DISAGREES 2	REPLIES 0	

FORUM TOPIC

Fair Chance Hiring Ordinance Feedback

05 November 23

KAS

AGREES

2

DISAGREES

0

REPLIES

0

We live in a wonderful society where you can get a first, second, third chance etc. if/when necessary. Those scenarios are entirely common, and as an employer in this county for decades, we have engaged in employing folks looking for opportunities, based on a criteria we have for public safety and our consumers. For context, the State of Texas, the City of Denton, Denton County and the entire business community in this State have and are participating in "At-Will" employer/employee relationships. Quite literally, this means that any entity and person seeking employment in/and doing business in the State of Texas are in a default employment relationship. Which interprets to that employers and employees can terminate or modify the employment at any time, for any reason, without notice or jurisdiction, unless prevented by law or express agreement. This quite literally gives them the governing bodies authority to discriminate based on their hiring and employment criteria for any reason or without, at any time. The same applies to commerce, you are free to conduct and engage in business with anyone in the product space you are pursuing, both as the offerors and the potential receivers of such goods or services. That's why Texas is booming and Fortune 500 companies are continually moving in and investing in Texas. The question is, will the governing bodies comply with the ordinance that is being proposed to the private business sector? And the answer is no. - From the private business side, there are costs that will effect the COGS of any business when efficiencies are compromised, including the hiring process. It's part of the general overhead, often overlooked, but the value is present regardless. And I have yet to see a successful business or organization that does not require efficiencies, regardless of their models. (In our personal business and corporate operations, we look for talent, but we assess every aspect of the hiring process to best fill a position for employment that represents the culture we are maintaining, developing and/or creating. That process includes people being up front honest and transparent about whatever offense they have committed. We as the employer maintain control to create the culture we want to best represent our core values and services. And that has historically included employing people with previous convictions, H1B visas, wherever the talent pool takes us. But ultimately, it's our process and our decision. And omitting information would be viewed as deceitful and not very helpful to the prospective applicant.) - Looking at it from the employee side, why would you want to apply and possibly work for an organization that has the potential to discriminate against you? Would it not be better for an individual to understand prior to application to know and understand that they may not be qualified for any various reason set forth for employment? Thus increasing their opportunity to be efficient in finding gainful employment. As prospective hire, if hired as an employee would you stand to gain by being in an uncomfortable work environment? If in the end the employer has a set of criteria, which will be made know in the process ultimately, and restricts your employment, would you not wish to know that as well? So as not to waste your time and be in the best position based off of your personal criteria to be successful in achieving gainful employment? - In conclusion, I personally feel that people who have paid their debt to society, have paid their debts when in compliance. I also find it extremely valuable to an employer to have the ability to create a job position or career opportunity based on whatever criteria they set. It's not up to the local municipality to decide how you run or operate your business, that's for you and the markets to decide. And if you develop a product that is beneficial to your community, you will be rewarded regardless of who the employee class is or were. I am curious to what the "prosecutorial commission to be created" (at taxpayers expense) would use as a criteria for "investigating" and potentially prosecuting local business owners for trying to create the best product they can for their communities safely and efficiently? Which prosecuting such "offense", in itself is a conflict of interest with the State of Texas and business practices. Prosecution in turn, which would pit the State (prosecuting municipal attorney), against the State of Texas and their adopted business laws. The municipalities have to either enforce exiting laws, engage in another losing legal battle, or seek relief through the legislative process. I would also suspect that a lawsuit would arise from the State itself and the business community, against this proposed ordinance if enacted, in which the taxpayers of the City of Denton will be left defending, and losing, wasting \$million\$ more, just as we have in recent legal losses that we are still on the hook for and are paying. I'm often reminded of that wastefulness engaged in when attempting to maneuver around or running over a pot hole, as many taxpaying citizens are as well. And then ask yourself, if the proposers of the ordinance were liable and the fiduciary protections were removed against elected officials, would they govern and behave the same way? The answer to that as well is no, the proposers will not risk personal wealth and treasures. Thanks as always for the opportunity to chime in and for the platform to do from.

FORUM TOPIC

Fair Chance Hiring Ordinance Feedback

06 November 23			If you are in a business employing high school and college age boys & girls, there must be some way of screening possible employees who might be either working along side or managing these other employees. You should not be restricted from finding out about questionable background right up front. Saves everyone time and disappointment.
Bob			
AGREES 3	DISAGREES 0	REPLIES 0	

06 November 23			I'm always guarded against accepting rules from authorities who will not accept the same rules themselves. What's good for the goose should also be good for the gander. My understand is that our city departments will not be held to the same requirement(s) set by the Fair Chance Employment rules & restrictions being discussed.
Bob			
AGREES 4	DISAGREES 0	REPLIES 0	

06 November 23			The members of a seven member City Council in a city like Denton, with two universities and a community college and literally hundreds of businesses should not have the authority to establish restrictions on what questions owners/managers can ask "up front" of a prospective employee. Such questions & answers could help determine safety factors, actions, environment or other key elements affecting their business, other employees, their operation and their business's performance. Too often, those governing members have little, or no, experience actually hiring employees themselves or developing/running a business.
Bob			
AGREES 3	DISAGREES 2	REPLIES 0	

07 November 23			Quit virtue signaling. How about you fix streets, support law enforcement, decrease vagrancy, & lower our taxes rather than waste time on your pet social causes. We have enough federal hiring guidelines to choke on. Stay in your lane. I own a financial services business. Do you want a money launderer involved in handling your money?
Ttocsdor			
AGREES 1	DISAGREES 2	REPLIES 0	

07 November 23			Why don't you help people without criminal records get jobs? Why would you advertise for criminals to come work in our city? Then they move here then we have more crime.
Denton			
AGREES 0	DISAGREES 1	REPLIES 0	

13 November 23			I am wondering why the city of Denton really wants to pass this ordinance. Is it because Austin passed it, so now we need to pass it? Why does our Denton leadership want to be the next Austin? We can see how left leaning policies have destroyed that city. Also, why does Denton leadership want to control how small businesses operate? They should be grateful that businesses provide tax dollars to fund their pursuits.
Angela			
AGREES 2	DISAGREES 1	REPLIES 0	

FORUM TOPIC

Fair Chance Hiring Ordinance Feedback

17 November 23

Mark

AGREES

4

DISAGREES

1

REPLIES

1

20 November 23

Franny

AGREES

3

DISAGREES

0

REPLIES

0

21 November 23

Kels

AGREES

3

DISAGREES

1

REPLIES

0

24 November 23

Shawash2

AGREES

2

DISAGREES

0

REPLIES

0

Any profession that requires a fiduciary relationship with others must be excepted. Also, many crimes involve violence or moral turpitude which could affect the duty of an employer to provide a safe workplace....unfairly placing other employees at risk and/or forcing an employer to be held accountable for not protecting other employees (in the event a workplace incident happens with an employee with such a history). Other criminal history (e.g. minor, with no violence or honesty issues) may not involve such risk to third parties. Finally, while we are at effectively full employment with many jobs going unfilled that may be by preference or choice of the unemployed, a compelling need for such an accommodation may not exist, meaning the risk may not be worth imposing such a regulation.

My office would have some concerns about this legislation. Everyone in our office has full access to hundreds of client's personal information, such as full names, social security numbers, addresses, and birthdates. We have to be very careful when hiring, and would not be able to hire someone with a criminal history.

I have concerns about the ordinance as written. My company does not generally take criminal history into account when hiring, however we do inquire about criminal history in our application. We do not make interviewing or hiring decisions based on this information, but we do consider whether an applicant can be honest in answering and appropriate in reflecting on the history. It is also the best opportunity to frankly discuss the criminal history productively with the applicant if there are concerns. I see the City saying that at federal or state law requiring background checks supersedes this ordinance, but my staff fall outside those very specific jobs even though many have access to very sensitive personal and financial information, come into contact with children regularly as part of their duties, etc. If nothing else, prior knowledge of criminal history might affect the access and supervision given to a new staff member. Due to the nature of our business, there is not usually much, if any, of a waiting period between an offer of employment and starting in a position, so the idea of making a conditional offer and only then exploring criminal history is fairly unworkable for us. I understand that the City is trying to accomplish something positive here, but I think the actual result is going to be increasing the burden and management of hiring processes (which my company tries to keep simple and up-front) with no material gain to the stakeholders they are trying to assist. Having said all of that, upon closer reading, the City seems to be trying to sidestep certain complications by inserting the underlined section suggesting that the prohibited conduct is only prohibited if it results in unlawful discrimination. And if that's the case, then I am not really sure what the point of the ordinance is, as unlawful discrimination is already unlawful and this ordinance would simply add confusion to a hiring process that can already be burdensome for employers.

Businesses should be allowed to make hiring decisions for themselves and not have regulations put on them that restricts them. Who they choose to hire is their decision, and no one else's.

FORUM TOPIC

Fair Chance Hiring Ordinance Feedback

25 November 23			I was going to reply to this discussion but this gentleman's statement sums up what I was going to express. The ordinance is nonsense!
Eh			
AGREES 0	DISAGREES 0	REPLIES 0	

26 November 23			He governs best who governs least. First requirement of creating laws is to do no harm . This proposal has a good motive, but the unintended consequences are legion and offset any substantive value. Second requirement for lawmaking is that a law should ONLY be created to address a compelling need that cannot be resolved otherwise. That need at a time of effective full employment has not been demonstrated.
Mark			
AGREES 1	DISAGREES 1	REPLIES 0	

QANDA

Submit a Question

Visitors 28	Contributors 4	CONTRIBUTIONS 5
--------------------	-----------------------	------------------------



Seanjake

13 October 23

Have you considered the unintended consequence, which has been documented following similar "ban the box" initiatives, that employers may simply avoid hiring anyone who seems like they may have had a criminal background, thus actually narrowing hiring opportunities instead of increasing them?



Publicly Answered

Thank you for your feedback. One of the reasons the City is providing multiple opportunities for community and business input is to ensure we are considering any potential unforeseen and unintended consequences.



Seanjake

13 October 23

Will organizations and businesses that work with vulnerable communities (child care, pregnancy care, human trafficking recovery, etc.) still be able to require criminal background checks, even in the absence of federal regulations requiring them?



Publicly Answered

A Fair Chance Hiring Ordinance does not prohibit an employer from inquiring about an applicant's criminal history if there are federal or state laws that require a criminal history check, or if a conviction of a criminal offense would disqualify a person from holding a particular position (e.g., child day care facilities, public safety positions, certain financial or insurance positions) Further, a criminal history check may still be performed, provided it does not result in illegal discrimination, including by a disparate impact of such checks.

QANDA

Submit a Question

Q

Glenda

19 October 23

So what is to prevent a convicted pedophile from applying for a job at a child care center? Do you think that is ok--really? Gee, what could go wrong?? This proposal is insane. This is government overreach, and we believe the City Council should BACK OFF and leave businesses alone. Glenda and Robert Kallman

A

Publicly Answered

There are laws that disqualify a person from holding a particular position due to a conviction for a certain offense (e.g. , persons employed by child day care facilities, public safety positions, certain financial or insurance positions) so, employers for those positions would not violate the ordinance merely by performing a criminal history check unless they did so in a manner that was also in violation of federal or state law.

Q

GraceWeatherly

07 November 23

There is an exemption for jobs requiring a background check but who decides whether that exemption actually applies? Also how does this affect the affirmative defense created under state law for employers of service & delivery people whose job it is to go inside customer's homes?

A

Publicly Answered

The prospective employer in making its hiring decision will be responsible for determining whether an exemption applies. If a complaint is filed, and if the complaint is referred to the state or federal agency responsible for investigating employment discrimination complaints, that agency will determine whether an exemption applies. If the state/federal agency determines it does not have jurisdiction over the complaint, the complaint will be investigated by a third-party investigator hired by the City, who will be responsible for determining whether an exemption applies. If the investigator determines an exemption applies, the complaint will be closed. Regardless of who investigates the complaint, a prospective employer would be allowed to assert any affirmative defense allowed by law and a final determination on the merits of the complaint would be made by the investigating authority.

QANDA

Submit a Question

Q

Denton

07 November 23

How can the city get involved in a private companies hiring practices? Especially having them waste their time interviewing someone they will not hire because of there criminal back ground.

A

Publicly Answered

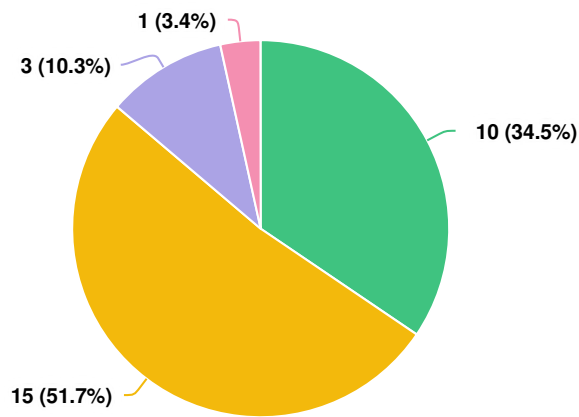
Local, state, and federal governments have the right to regulate, within certain parameters, the hiring practices of private companies to protect individuals from illegal acts of an employer. For example, the United States Congress has passed legislation that prohibits certain actions of an employer, such as child labor prohibitions and protections, and discrimination in employment based upon being a member of a protected class, including but not limited to race, religion, national origin, age, and disability.

ENGAGEMENT TOOL: QUICK POLL

Do you support the proposed Fair Chance Hiring Ordinance?

Visitors 30	Contributors 29	CONTRIBUTIONS 29
--------------------	------------------------	-------------------------

Do you support the proposed Fair Chance Hiring Ordinance?



Question options

● Yes ● No ● Unsure ● Unsure, and need more information

Mandatory Question (29 response(s))

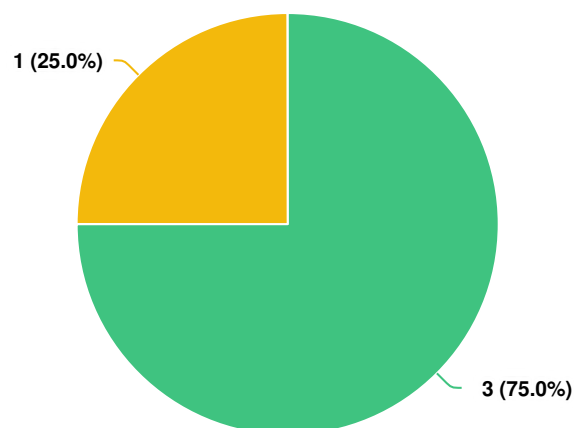
Question type: Radio Button Question

ENGAGEMENT TOOL: QUICK POLL

Do you live or work in Denton?

Visitors 4	Contributors 4	CONTRIBUTIONS 4
-------------------	-----------------------	------------------------

Do you live or work in Denton?



Question options

- Live and work in Denton ● Live, but do not work in Denton

Mandatory Question (4 response(s))

Question type: Radio Button Question

ENGAGEMENT TOOL: QUICK POLL

What best describes you?

Visitors 4	Contributors 4	CONTRIBUTIONS 4
-------------------	-----------------------	------------------------

What best describes you?



Question options

● Business owner/manager ● Not a business owner/manager

Mandatory Question (4 response(s))

Question type: Radio Button Question

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON AMENDING CHAPTER 14, ARTICLE VIII OF THE CODE OF ORDINANCES (NON-DISCRIMINATION IN PUBLIC ACCOMMODATIONS, EMPLOYMENT PRACTICES, AND HOUSING), TO ADD A FAIR CHANCE HIRING PROVISION TO SECTION 14-203-5 SETTING HIRING STANDARDS TO LIMIT EMPLOYERS' CONSIDERATION OF THE CRIMINAL HISTORY ON AN INITIAL JOB APPLICATION; PROVIDING SEVERABILITY; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND CODIFICATION; PROVIDING FOR A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Denton recognizes that people with criminal histories suffer from pervasive discrimination in many areas of life, including employment, housing, education, and eligibility for many forms of social service benefits; and

WHEREAS, an employer's neutral policy (e.g., excluding applicants from employment based on certain criminal conduct) can disproportionately impact some individuals based on their race or national origin as described in the U.S. Equal Employment Opportunity Commission Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions under Title VII of the Civil Rights Act, EEOC Enforcement Guidance No. 915.002; and

WHEREAS, the City of Denton recognizes that legal protections extended to most protected classes under federal and state law do not apply to persons with criminal histories; and

WHEREAS, the City of Denton seeks to assist with the successful reintegration of formerly incarcerated people into the community after their release; and

WHEREAS, lack of employment is a principal factor for recidivism, with people who are employed proving significantly less likely to be re-arrested; and

WHEREAS, removal of obstacles to employment for people with criminal histories increases public health and safety by providing economic and social opportunities to large groups of citizens; and

WHEREAS, people with criminal histories represent a group of job seekers who are ready to contribute and add to the workforce; and

WHEREAS, the City Council finds that denying an employment opportunity to an otherwise qualified person based on the person's criminal history that is not relevant to the job under consideration is unjust; is detrimental to the health, safety, and welfare of the residents of the City; prevents the reintegration of the person into the community; creates a burden on public resources and law enforcement; contributes to crime and recidivism; and contributes to unemployment and harms the local economy; and

WHEREAS, the Council further finds that it is within the police power and the responsibility of the City to remedy the problems enumerated in herein; and

WHEREAS, the City Council declares it to be the public policy of the City that all persons subject to its jurisdiction should enjoy equal human rights, including the ability to earn wages through gainful employment, without being subject to discrimination based on their criminal history; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The findings and recitations contained in the preamble of this Ordinance are incorporated herein by reference to the body of this Ordinance as if fully set forth herein.

SECTION 2. The City Council finds that adopting this amendment to Chapter 14, Article VIII, that Section 14-203-5 of the City Code of Ordinances removes an obstacle to employment for people with criminal histories, increases public health and safety by providing economic and social opportunities to large groups of citizens, ameliorates the disproportionate impact of certain hiring practices on individuals based on their race or national origin, and enhance the quality of life of the citizens of the City of Denton and serves a compelling governmental interest.

SECTION 3. Chapter 14, Article VIII of the City of Denton Code of Ordinances, entitled “Non-Discrimination in Public Accommodations, Employment Practices, and Housing,” is hereby amended to add Section 14-203-5(c), entitled “Fair Chance Hiring,” and provided as follows:

“Sec. 14-203-5: Employment Practices

...

(c) Fair Chance Hiring

(1) Policy Declarations.

(a) The City of Denton celebrates its diverse population, and to that end, it is hereby declared to be the public policy of the City of Denton that all persons subject to its jurisdiction should enjoy equal human rights, including the ability to earn wages through gainful employment.

(b) The City of Denton recognizes that legal protections extended to most protected classes under federal and state law have not been extended to protect individuals with criminal histories, but that excluding applicants for employment based on criminal history may result in discrimination, whether by intent or by unlawful disparate impact, that denies equal employment opportunities due to an applicant’s race, color, national origin, age, religion, disability, sex, sexual orientation, or gender identity.

(c) The City of Denton recognizes that an employer that rejects everyone with a criminal conviction from all employment opportunities is likely engaging in

discrimination, and that an employment policy that rejects many more applicants of one race, color, national origin, age, religion, disability, sex, sexual orientation, or gender identity is discriminatory if the policy is not closely related to the job.

(d) The City of Denton has determined that employers waiting until later in the hiring process to inquire about an applicant's criminal history will reduce discrimination, whether by intent or by unlawful disparate impact, that denies equal employment opportunities due to race, color, national origin, age, religion, disability, sex, sexual orientation, or gender identity.

(2) *Definitions:*

(a) In addition to the definitions in Section 14-203-2, the following definitions also apply to Subsection 14-203-5(c).

(b) In Subsection 14-203-5(c), the following words, terms, and phrases, when used, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

Adverse Action means an employer's refusal to hire, a refusal to promote, or the revocation of an offer of employment.

Applicant means an individual who submits an initial job application or other documentation for employment.

Conditional Employment Offer means an oral or written offer by an employer to employ an individual in a job, or placement in an employment agency's staffing pool, that is conditioned on the employer's evaluation of the individual's criminal history.

Conviction means a record from any jurisdiction that includes information indicating that a person has been convicted of a felony or misdemeanor, provided that the conviction is one for which the person has been placed on probation, fined, imprisoned, or paroled.

Criminal History means an arrest, conviction, plea of nolo contendere, or deferred adjudication arising from a felony criminal accusation, or a Class A or Class B misdemeanor criminal accusation, made under state law, federal law, or a comparable law of another state of the United States.

Criminal History Report means any criminal history report, including, but not limited to, those produced by the Texas Department of Public Safety, National Crime Information Center (NCIC), Federal Bureau of Investigation, other law enforcement or police agencies, or courts, or by any consumer reporting agency or business or employment screening agency or business.

Employment means to work for an employer for pay. The term includes full time work, part time work, temporary or seasonal work, contract work, casual or contingent work, work through the services of a temporary or other employment agency, and participation in a vocational, apprenticeship, or educational training program.

Individualized Assessment means an evaluation of the criminal history of an individual that includes, at a minimum, the following factors:

- (1) the nature and gravity of any offenses in the individual's criminal history;
- (2) the length of time since the offense and completion of the sentence;
and
- (3) the nature and duties of the job for which the individual has applied.

Initial Job Application means the first written or oral expression of interest in a job by an individual made in compliance with the employer's established criteria for receiving expressions of interest.

Job means an employment position with an employer for which the employer has solicited or accepted applications and which the employer is currently attempting to fill.

Staffing Pool means a list of individuals retained by an employment agency before the assignment of a specific job to perform for another employer.

(3) *Applicability*

- (a) Subsection 14-203-5(c) applies to an employer as defined in Section 14-203-2.
- (b) Subsection 14-203-5(c) does not apply to employment for which an individual may be disqualified based on the individual's criminal history under a federal, state, or local law, or compliance with legally mandated insurance or bond requirement.
- (c) Nothing in Subsection 14-203-5(c) limits an employer's authority to make a hiring decision for any lawful reason, including the determination that an individual is unsuitable for the job based on an individualized assessment of the applicant's criminal history.

(4) *Fair Chance Hiring Practices*

(a) An employer may not commit any of the following listed actions where such action results in discrimination, whether by intent or by unlawful disparate impact, that denies an applicant an equal employment opportunity due to race, color, national origin, age, religion, disability, sex, sexual orientation, or gender identity:

- (1) An employer may not publish or cause to be published information about a job that states or implies that an individual's criminal history automatically disqualifies the individual from consideration for the job.
- (2) An employer may not solicit or otherwise inquire about the criminal history of an individual in an initial job application for a job.
- (3) An employer may not inquire in oral or written form about an applicant's criminal history, solicit a criminal history report about an applicant, or consider an applicant's criminal history before the employer has first made a conditional employment offer to the applicant. This does not preclude an employer from explaining to applicant, in writing, the individualized assessment process that the employer uses to consider criminal history.
- (4) An employer may not refuse to consider employing an individual in a job because the individual did not provide criminal history information before the individual received a conditional employment offer.
- (5) An employer may not take adverse action against an individual because of the individual's criminal history unless the employer has determined that the individual is unsuitable for the job based on an individualized assessment conducted by the employer.
- (6) An employer who takes adverse action against an individual based on the individual's criminal history must inform the individual in writing that the adverse action was based on the individual's criminal history.
- (7) Notwithstanding any other part of Subsection 14-203-5(c), an employment agency may solicit criminal history information about an individual and make an individualized assessment of an individual's criminal history before the staffing agency places the individual in a staffing pool or has identified a job to which the individual will be employed."

SECTION 4. This Ordinance shall be cumulative of all provisions of ordinances of the City of Denton, except where the provisions of this Ordinance are in direct conflict with the provisions

of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 5. All other provisions of Chapter 14, Article VIII apply to Fair Chance Hiring except where there is a direct conflict with a specific provision of Section 14-203-5(c), in which case the specific provision of Section 14-203-5(c) shall control.

SECTION 6. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 7. The City Secretary is hereby directed to record and publish the above regulations in the City's Code of Ordinances.

SECTION 8. Any person violating any provision of this Ordinance shall, upon conviction, be found guilty of a Class "C" misdemeanor and fined a sum not to exceed five hundred dollars (\$500.00) for each violation.

SECTION 9. This Ordinance shall become effective one hundred-twenty (120) calendar days from the date of its passage, and the City Secretary is hereby directed to cause the caption of this Ordinance to be published twice in the *Denton Record-Chronicle*, the official newspaper of the City of Denton, Texas, within ten (10) days of the date of its passage.

The motion to approve this Ordinance was made by _____ and seconded by _____; this Ordinance was passed and approved by the following vote [___- ___]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2025.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: 

ORDINANCE NO. 22-407

AN ORDINANCE OF THE CITY OF DENTON AMENDING CHAPTER 14 OF THE CODE OF ORDINANCES (HEALTH & HUMAN SERVICES) TO ADD ARTICLE VIII, TITLED “NON-DISCRIMINATION IN PUBLIC ACCOMMODATIONS, EMPLOYMENT PRACTICES, AND HOUSING;” REPEALING CHAPTER 15 OF THE CODE OF ORDINANCES (HOUSING), PROVIDING SEVERABILITY; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION AND CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Denton celebrates its diverse population; and

WHEREAS, the City of Denton recognizes that legal protections extended to most protected classes under federal and state law have not been completely extended to protect individuals against discrimination based on their sexual orientation or gender identity; and

WHEREAS, the City of Denton declares it to be the public policy of the City that all persons subject to its jurisdiction should enjoy equal human rights, including the ability to earn wages through gainful employment, to obtain and enjoy goods, services, facilities and accommodations in all places of public accommodation, and to obtain housing, without being subject to discrimination based on race, color, national origin, age, religion, disability, sex, sexual orientation, or gender identity, which otherwise is detrimental to the peace, progress, and welfare of the City; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The findings and recitations contained in the preamble of this Ordinance are incorporated herein by reference.

SECTION 2. The City Council finds that adopting a Non-Discrimination Ordinance that addresses public accommodations, employment practices, and housing, enhances the public welfare and quality of life for residents, visitors, and businesses in the City of Denton.

SECTION 3. Chapter 14 of the City of Denton Code of Ordinances, entitled “Health & Human Services,” is hereby amended to add Article VIII, entitled “Non-Discrimination in Public Accommodations, Employment Practices, and Housing,” as provided as follows:

ARTICLE VIII: NON-DISCRIMINATION IN PUBLIC ACCOMMODATIONS, EMPLOYMENT PRACTICES, AND HOUSING

Sec. 14-203-1. Equal rights policy.

(a) Policy Declarations.

- (1) The City of Denton celebrates its diverse population, and to that end, it is hereby declared to be the public policy of the City of Denton that all persons subject to its jurisdiction

should enjoy equal human rights, including the ability to earn wages through gainful employment, to obtain and enjoy goods, services, facilities and accommodations in all places of public accommodation, and to obtain housing.

- (2) It is policy of the City of Denton to ensure that no one is denied employment, public accommodations, or housing based on race, color, national origin, age, religion, disability, sex, sexual orientation, or gender identity.
- (3) The City of Denton recognizes that legal protections extended to most protected classes under federal and state law have not been completely extended to protect individuals against discrimination based on their sexual orientation or gender identity.

Sec. 14-203-2. Definitions

(a) In this ordinance, the following words, terms, and phrases, when used, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

- (1) *Administrator* means the individual designated by the City Manager or their designee to receive, investigate, and conciliate complaints under this ordinance and includes the administrator's designated representatives.
- (2) *Age* shall mean a person forty (40) or more years of age.
- (3) *Business day* shall mean a day the City of Denton is open and conducts official business.
- (4) *Complainant* shall mean a person who files a complaint pursuant to Section 14-203-11.
- (5) *Conciliation* shall mean the attempted resolution of issues raised by a complaint or by the investigation of a complaint, through informal negotiations or mediation.
- (6) *Conciliation agreement* shall mean a written agreement setting forth the resolution of issues pursuant to conciliation.
- (7) *Disability* shall mean a physical or mental impairment that substantially limits one (1) or more major life activities of an individual, a record of such an impairment or being regarded as having such an impairment; it is to be construed to be in accordance with the Americans with Disabilities Act and the ADA Amendments Act of 2008.
- (8) *Discrimination* shall mean any direct or indirect disparate, prejudicial, or unjust treatment, distinction, segregation, limitation, refusal, denial or other differentiation of a person or persons, based on a particular characteristic or by classifying or categorizing a person based on perceived or actual participation in a certain group of people with a particular characteristic.
- (9) *Dwelling* shall mean:
 - a. A building, structure or part of a building or structure, that is occupied as, or designed or intended for occupancy as, a residence for one (1) or more persons;

- b. Vacant land that is offered for sale or lease for the construction or location of a building, structure or part of a building or structure, described in subsection (a).
- (10) *Educational institution* shall mean:
- a. Any prekindergarten, kindergarten, primary, secondary, or postsecondary educational institution, supported in whole or in part by state tax funds;
 - b. A "private school" as defined by V.T.C.A., Education Code § 5.001(6-a);
 - c. An "open-enrollment charter school" as defined by V.T.C.A., Education Code § 5.001(6);
 - d. An "institution of higher education" as defined by V.T.C.A., Education Code § 61.003(8); or
 - e. A "private or independent institution of higher education" as defined by V.T.C.A., Education Code § 61.003(15).
- (11) *Employee* shall mean any individual employed by an employer. The term does not include an elected official.
- (12) *Employer* shall mean any person who has fifteen (15) or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year and includes any agent of such person. The term does not include any person specifically excluded from this section.
- (13) *Employment agency* shall mean any person, and any agent of a person, who regularly undertakes, with or without compensation, to procure:
- a. Employees for an employer; or
 - b. Opportunities for a person to work for an employer.
- (14) *Familial status* means one (1) or more individuals, who have not attained the age of eighteen (18) years, being domiciled with:
- a. A parent or another person having legal custody of such individual or individuals; or
 - b. The designee of such parent or other person having such custody, with the written permission of such parent or other person; or
 - c. A person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.
- (15) *Family* includes a single individual.
- (16) *Gender identity* shall mean a person's real or perceived gender identity as male, female, both, or neither, and/or an innate, deeply felt sense of gender, which may or may not correspond to the person's physical anatomy and also includes a person's gender expression through external characteristics and behaviors including, but not limited to, dress, grooming, mannerisms, speech patterns and social interactions, that are identified with a particular gender or sexual orientation.

- (17) *Joint labor-management committee* shall mean an entity that controls apprenticeship or other training or retraining programs, including on-the-job training programs.
- (18) *Labor organization* shall mean a labor organization and any of its agents, and includes:
- a. Any organization, agency or employee representation committee, group, association, or plan in which employees participate and that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours or other terms and conditions of employment; and
 - b. Any conference, general committee, joint or system board or joint council so engaged, that is subordinate to a national or international labor organization.
- (19) *Non-profit organization* shall mean an organization exempt from taxation as provided in Internal Revenue Code, 26 U.S.C. § 501(c).
- (20) *Person* includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, fiduciaries, and any other organization or entity of whatever character.
- (21) *Place of public accommodation* means any of the following establishments if they are open to the general public and, for compensation, offer any product, service, or facility to the general public:
- a. Any inn, hotel, motel, or other establishment that provides lodging to transient guests, other than an establishment:
 1. Located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of the establishment as a residence; or
 2. In which the majority of the occupants are permanent residents and maintain their fixed place of domicile in the establishment.
 - b. Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of a retail establishment or gasoline station;
 - c. Any motion picture house, theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment;
 - d. Any bar, tavern, pub, drinking establishment, or facility where alcoholic beverages are served;
 - e. Any retail or wholesale establishment selling any kind of goods or services;
or
 - f. Any public conveyance, including stations and terminals.

- (22) *Public conveyance* shall mean any vehicle, or any other means of transport operated on land, water or in the air, which in fact caters to, or offers its goods, facilities, or services to, or solicits or accepts patronage from the general public. "Public conveyance" includes any person who is the owner, lessee, operator, proprietor, manager, superintendent, agent or employee or any public conveyance.
- (23) *Protected employment characteristic* shall mean an individual's race, color, national origin, age, religion, disability, sex, sexual orientation, or gender identity.
- (24) *Protected housing characteristic* shall mean an individual's race, color, national origin, age, religion, disability, familial status, sex, sexual orientation, gender identity, or a veteran's source of income.
- (25) *Reasonable Accommodation* means a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with disabilities to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces, or to meet program requirements.
- (26) *Reasonable Cause* means that there is sufficient evidence to allege that a respondent has violated this ordinance. Evidence is sufficient if a reasonable person would believe that further inquiry into whether a violation occurred is warranted.
- (27) *Reasonable Modification* under the Fair Housing Act means a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises.
- (28) *Religion* shall mean all aspects of religious observance and practice, as well as belief.
- (29) *Religious organization* shall mean:
- a. A religious corporation, association, or society; or
 - b. A school, college, university, or other educational institution or institution of learning, if:
 1. The institution is, in whole or in substantial part, controlled, managed, owned, or supported by a religion, religious corporation, association, or society; or
 2. The curriculum of the institution is directed toward the propagation of a religion.
- (30) *Respondent* shall mean a person, organization, or entity against whom a complainant has filed a complaint pursuant to Section 14-203-11.
- (31) *Sex* shall mean gender and the biological differences between men and women.
- (32) *Sexual orientation* shall mean the actual or perceived status of a person with respect to their sexuality.
- (33) *Source of income* means lawful, verifiable income paid directly to a tenant (child support, or spousal maintenance) or to a representative of a tenant, or paid to a housing owner or landlord on behalf of a tenant, including federal, state, or local public assistance, and

federal, state, or local housing subsidies, including, but not limited to, federal housing assistance vouchers issued under Section 8 of the United States Housing Act of 1937.

- (34) *To rent* includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.
- (35) *U.S. Department of Housing and Urban Development (HUD)-Veterans Affairs (VA) Supportive Housing Program (HUD-VASH)* is a collaborative program between HUD and VA combining HUD housing vouchers with VA supportive services to help homeless Veterans and their families find and sustain permanent housing.
- (36) *Veteran* means a person who served in the active military, naval, or air service and who was discharged or released under conditions other than dishonorable.

Sec. 14-203-3: Exclusions

Except as required by state or federal law, this ordinance shall not apply to the following:

- (a) Religious organizations;
- (b) The United States government or any of its departments or agencies;
- (c) The State of Texas, or any of its departments, agencies, or political subdivisions.

Sec. 14-203-4: Public Accommodations

- (a) *Unlawful practice.* It shall be unlawful for any person with care, custody or control over the premises of a place of public accommodation or for any owner, employee or agent, of a place of public accommodation to discriminate against any person on the basis of race, color, national origin, age, religion, disability, sex, sexual orientation, or gender identity, to:
 - 1. Directly or indirectly exclude, segregate, limit, refuse, or deny to any person any of the accommodations, advantages, facilities, benefits, services or goods, offered to the general public at a place of public accommodation; or
 - 2. Circulate, issues, display, post, mail, or otherwise publish a statement, advertisement, or sign indicating that:
 - a. A person will be denied accommodations, advantages, facilities, benefits, privileges, services, or goods at that place; or
 - b. The patronage or presence of a person at that place is objectionable, unwelcome, unacceptable, undesirable, or unsolicited.
- (b) *Defenses.*
 - 1. It is a defense to prosecution under this subsection on the basis of disability that the discrimination resulted from a condition or structural feature that is in conformance with the law.

2. It is a defense to prosecution if the refusal to admit a person to a place of public accommodation or the expulsion of a person from a place of public accommodation was required by law.

(c) *Additional Exclusion.*

1. This section does not apply to a bona fide social, fraternal, educational, political, religious, or civic organization, including a private club, that is restricted to members of the organization/club and guests and is not open to the general public, when the profits of the accommodations, advantages, facilities, and services (above reasonable and necessary expenses) are solely for the benefit of the organization/club.

Sec. 14-203-5: Employment Practices

- (a) *Unlawful practice.* It shall be unlawful for an employer to discriminate against any person on the basis of race, color, national origin, age, religion, disability, sex, sexual orientation, or gender identity by the following actions or inactions:

1. For an employer to fail or refuse to hire, or to discharge, any person;
2. For an employer to discriminate against any person with respect to compensation, terms, conditions, or privileges, of employment;
3. For an employer to limit, segregate or classify employees or applicants for employment in any way that would deprive or tend to deprive a person of employment or employment opportunities, or that would otherwise adversely affect a person's status as an employee;
4. For an employment agency to fail or refuse to refer for employment, or to otherwise discriminate against, any person because of a protected employment characteristic;
5. For an employment agency to classify or refer for employment any person, on the basis of a protected employment characteristic;
6. For a labor organization to exclude or expel from its membership, or to otherwise discriminate against, any person because of a protected employment characteristic;
7. For a labor organization to fail or refuse to refer for employment any person because of a protected employment characteristic;
8. For a labor organization to limit, segregate or classify its members or applicants for membership, in any way that would deprive or tend to deprive a person of employment or employment opportunities, or that would otherwise adversely affect a person's status as an employee or as an applicant for employment;
9. For a labor organization to cause or attempt to cause an employer to discriminate against a person in violation of this ordinance;
10. For an employer, a labor organization or a joint labor-management committee, to discriminate against any person because of a protected employment characteristic

in the admission to, or employment in, any program established to provide apprenticeship or other training;

11. For an employer to print or publish, or cause to be printed or published, any notice or advertisement relating to employment by the employer that indicates any preference, limitation, specification, or discrimination, based on a protected employment characteristic;
12. For an employment agency to print or publish, or cause to be printed or published, any notice or advertisement relating to membership in or any classification or referral for employment by the employment agency that indicates any preference, limitation, specification, or discrimination, based on a protected employment characteristic; or
13. For a joint labor-management committee to print or publish, or cause to be printed or published, any notice or advertisement relating to admission to, or employment in, any program established to provide apprenticeship or other training by the joint labor-management committee that indicates any preference, limitation, specification, or discrimination, based on a protected employment characteristic.

(b) *Additional Exclusions.*

1. Nothing in this subsection prohibits a notice or advertisement from indicating a preference, limitation, specification, or discrimination, based on a protected characteristic when a protected characteristic is a bona fide occupational qualification for employment.
2. This section does not apply to, and does not require, the provision of employee benefits to a person for the benefit of the person's domestic partner.

Sec. 14-203-6: Housing

- (a) It is the policy of the City of Denton to provide, within constitutional limitations, for fair housing throughout the City by ensuring the opportunity for every person to obtain housing without regard to race, color, national origin, age, religion, disability, familial status, sex, sexual orientation, or gender identity.
- (b) Fair Housing means the prohibition of discrimination based on race, color, national origin, religion, sex, familial status, or disability when renting or buying a home, getting a mortgage, seeking housing assistance, or engaging in other housing-related activities.
- (c) *Unlawful practice.* It shall be unlawful for any person to discriminate against any person on the basis of race, color, national origin, age, religion, disability, familial status, sex, sexual orientation, or gender identity by engaging in the following housing practices:

1. *In the Sale and Rental of Housing.* A person engages in a prohibited discriminatory act if, because of race, color, national origin, age, religion, disability, familial status, sex, sexual orientation, or gender identity, they:
 - a. Refuse to rent or sell a dwelling;
 - b. Refuse to negotiate for the purchase or rental of a dwelling;
 - c. Discourage the purchase or rental of a dwelling or otherwise make housing unavailable;
 - d. Impose different sales prices or rental charges for the sale or rental of a dwelling; or
 - e. Set different terms, conditions or privileges for sale or rental of a dwelling or in the provision of services or facilities therewith.
2. *Other Prohibited Discriminatory Acts.* A person engages in a prohibited discriminatory act if, because of race, color, national origin, age, religion, disability, familial status, sex, sexual orientation, or gender identity, they:
 - a. Based on a person's disability, refuse to make a reasonable accommodation in rules, policies, practices, or services when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling and public and common use areas;
 - b. Based on a person's disability, refuse to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises;
 - c. In publication, make, print or publish, or cause to be made, printed, or published, any notice, statement, or advertisement, relating to the sale or rental of a dwelling that indicates a preference, limitation, or discrimination, for a protected housing characteristic or an intention to make any preference, limitation, or discrimination, based on a protected housing characteristic;
 - d. In inspection, represent to a person that a dwelling is not available for inspection, sale, or rental, when the dwelling is available for inspection, sale or rental;
 - e. For profit, induce or attempt to induce a person to sell or rent, or to not sell or rent, a dwelling by representing that people of a particular protected characteristic are about to move into the neighborhood;
 - f. In brokerage services, deny access to or membership in any multiple listing service or real estate brokers' organization or other service organization or facility;

- g. In residential real-estate-related transactions, refuse to make a mortgage loan, provide other financial assistance for a dwelling, impose different terms or conditions in a real-estate-related transaction, or otherwise discriminate against a person in making a real-estate-related transaction available.
- 3. *Veteran Source of Income.* Except as prohibited by Texas Local Government Code, Section 250.007, as amended, it shall be a discriminatory practice to discriminate in housing based on a Veteran's source of income.

(d) *Additional Exclusions.*

- 1. This subsection does not apply to the following:
 - a. To the sale or rental of a single-family house if the owner does not own more than three (3) single-family houses at any one (1) time. Any such sale of a single-family house shall be limited to one (1) such sale within any twenty-four (24) month period if the owner is not the most recent resident of the house prior to the sale or does not live there at the time of the sale, and the owner did not use the services or facilities of a real estate broker, agent, or salesman, or their agents and employees, for the sale or to advertise the sale in violation of this subsection; or
 - b. To a rental of a dwelling containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other if the owner actually maintains and occupies part of the dwelling as his residence.
 - c. Religious organizations and private clubs are allowed to give preference to their members as long as they do not discriminate in their membership.
- 2. Nothing in this article limits the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.
- 3. Nothing in this article regarding discrimination based on familial status applies with respect to housing for older persons as set out and defined in the Fair Housing Act.
- 4. Nothing in this article prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(e) *Housing Enforcement; complaints.*

- 1. Any person who claims to have been injured by a discriminatory housing practice or who believes that they will be irrevocably injured by a discriminatory housing practice that is about to occur, hereinafter referred to as the "person aggrieved," may request assistance from the administrator to file a complaint with the Fair Housing and Equal Opportunity Division of the Region VI office of the U.S.

Department of Housing & Urban Development. The administrator, if requested by the person aggrieved, may assist with preparation and submission of the complaint to the U.S. Department of Housing and Urban Development.

2. Whenever the administrator has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this article or that any group of persons has been denied any of the rights granted by this article, administrator may prepare and file a complaint to the U.S. Department of Housing & Urban Development, setting forth the facts in his own name, and such complaint shall be treated in the same manner as a complaint filed by a person aggrieved.
3. The administrator shall receive and accept notification and referral complaints from the U.S. Attorney General and the Secretary of Housing and Urban Development pursuant to the provisions of Title VIII, Fair Housing Act of 1968, Public Law 90-284, as amended (42 U.S.C. 3610), and shall treat such complaints in the same manner as other complaints filed pursuant to this section.

Sec. 14-203-7: Unlawful Intimidation, Retaliation and Coercion

It shall be unlawful for any person to discriminate against, harass, threaten, harm, damage or otherwise penalize or retaliate against another person for opposing an unlawful practice, full filing a complaint, or for testifying, assisting or participating in any manner in an investigation, proceeding or hearing, in connection with an act of discrimination prohibited by this ordinance.

Sec. 14-203-8: Effect on Legal Remedies

- (a) This ordinance shall not affect the right of any person to pursue any legal remedy for discriminatory practices available under federal or state law by filing a claim with the appropriate public agency or by filing a private civil action.
- (b) This ordinance does not create a private cause of action.
- (c) All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety, and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Denton in the discharge of their duties, shall not thereby render themselves personally liable; and they are hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of their said duties.

Sec. 14-203-9: Administration

The City Manager or their designee shall be responsible for implementing and administering this ordinance.

Sec. 14-203-10: Penalty

Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine of up to \$500 in accordance with Section 1-12(a)(4) of the City Code of Ordinances for each offense, as well as injunctive relief. Every day a violation continues shall constitute a separate offense. A violation shall be referred to the City Attorney's Office for prosecution if conciliation efforts are unsuccessful.

Sec. 14-203-11: Complaint Process

- (a) A person who claims to have been discriminated against in violation of this ordinance may file a complaint with the City Manager or their designee. A complaint must be filed within ninety (90) calendar days after an alleged unlawful practice has occurred.
- (b) A complaint shall be in writing on a form provided by the City Manager or their designee, made under oath or affirmation, and shall contain the following information:
 - 1. Name and address of the respondent.
 - 2. Name, address, email address, and signature of the complainant.
 - 3. Date of occurrence of the alleged unlawful practice.
 - 4. Statement of the facts upon which the allegation of an unlawful practice is based.
- (c) Within ten (10) business days after the filing of a complaint, the City Manager or their designee shall review the complaint and notify the complainant in writing as to whether the city will:
 - 1. Refer the complainant to another public agency pursuant to subsection (d) below;
 - 2. Deny the complaint due to incomplete information;
 - 3. Deny the complaint because it is legally deficient or untimely;
 - 4. Accept the complaint for investigation.
- (d) If the claim for discrimination is within the jurisdiction of a federal or state agency, the complainant shall be referred by the city to the appropriate public agency. The complainant shall be responsible for filing the discrimination complaint within timeframes set out in federal and state law and the city shall take no further action with regards to the complaint.
- (e) If, and only if, a federal or state agency to which a claim for discrimination is referred pursuant to subsection (d) of this subpart refuses to materially investigate the claim based upon a lack of jurisdiction, the complainant shall have thirty (30) calendar days, running from the date the complainant receives notice from the federal or state agency, to

resubmit their complaint pursuant to subsection (b) of this section. If a complainant is resubmitting a complaint in accordance herewith, the complaint shall contain a copy of the correspondence or other documentation from the federal or state agency indicating its refusal to investigate or denial of the complaint based on jurisdictional grounds, in addition to the documentation required by subsection (b) of this subpart.

- (f) The burden of proof shall be on the complainant that an unlawful act occurred.

Sec. 14-203-12: Investigation

- (a) Promptly after a complaint that is not within the jurisdiction of a state or federal agency pursuant to Sec. 14-203-11 (d) or the complainant receives notice from the federal or state agency and has resubmitted their complaint pursuant to Sec. 14-203-11 (e) of this section, the City Manager shall commence an investigation.
- (b) The City Manager or their designee shall, in writing:
 - 1. Notify the respondent named in the complaint that a complaint alleging the commission of an unlawful practice has been filed against the respondent;
 - 2. Furnish a copy of the complaint to the respondent; and
 - 3. Advise the respondent of the procedural rights and obligations of the respondent, including the right to file a written, signed, and verified informal answer to the complaint within fifteen (15) business days after service of notice of the complaint.
- (c) Not later than the 15th business day after service of the notice and copy of the complaint, a respondent may file an answer to the complaint. The answer must be in writing, made under oath or affirmation, and contain the following information:
 - 1. Name, address, email address, telephone number, and signature of the respondent or the respondent's attorney, if any; and
 - 2. Concise statement of facts in response to the allegations in the complaint, including facts of any defense or exception.
- (d) The City Manager or their designee may dismiss a complaint at any time if they determine that:
 - 1. The complaint was not filed within the required time;
 - 2. The location of the alleged unlawful practice is not within the City's jurisdiction;
 - 3. The alleged unlawful practice is not a violation of this ordinance;
 - 4. The complainant refuses to cooperate in the investigation of the complaint or enforcement of an executed conciliation agreement;
 - 5. A conciliation agreement has been executed by the complainant and the respondent.

The City Manager or their designee shall, in writing, notify the complainant and the respondent of the dismissal of the complaint and include a statement of the reason for the dismissal.

- (e) The City Manager or their designee shall prepare a final investigative report showing, at a minimum, the names and dates of contacts with witnesses; a summary of correspondence and other contacts with the aggrieved person and the respondent showing the dates of the correspondence and contacts; a summary description of other pertinent records; and a summary of witness statements. A final report under this section may be amended if additional evidence is discovered. If there are legal questions involved, the complaint will be sent to the City Attorney's Office for review.
- (f) After completion of the investigation, the administrator shall make available to the complainant and the respondent, at any time, information derived from the investigation and the final investigation report related to the investigation, except for information that is not subject to disclosure pursuant to state law, federal law, or common law privacy.
- (g) The complaint, the investigative report, and any evidence collected therein, shall be subject to public disclosure pursuant to the Texas Public Information Act. Prior to any release, documents related to the complaint/investigation shall be reviewed by the City Attorney's Office to ensure information that is excepted from disclosure by state law, federal law, or common law privacy is redacted. If necessary, the City Attorney may submit the information to the Texas Attorney General's Office for an opinion.

Sec. 14-203-13: Conciliation

- (a) If during or after the investigation, the City Manager or their designee determines that there is reasonable cause to believe discrimination occurred, the City shall attempt to conciliate the complaint. In conciliating a complaint, the City Manager or their designee shall try to achieve a just resolution and obtain assurances that the respondent will satisfactorily remedy any violation of the complainant's rights and take action to ensure the elimination of both present and future unlawful practices in compliance with this ordinance. This can include the voluntary discontinuance of the unlawful practice by the respondent and adequate assurances of future compliance with this ordinance combined with an educational component. Nothing said or done during the course of conciliation may be made public or be used as evidence in a subsequent proceeding under this ordinance. For these purposes, complaints and proceedings under this article shall be considered as litigation.
- (b) A conciliation agreement executed under this section must be in writing in a form approved by the City Attorney and must be signed and verified by the respondent and the complainant. A conciliation agreement is executed upon its signing and verification by all parties to the agreement. An agreement shall be a public document, subject to any redactions required by state law, federal law, or common law privacy.
- (c) A party to an executed conciliation agreement shall not be prosecuted in municipal court for the unlawful practice identified in the agreement unless the complaint notifies the City Manager or their designee within one (1) year of a violation of the agreement for

the same discriminatory practice addressed by the agreement and the City Attorney determines that the agreement has been violated.

- (d) If a conciliation agreement cannot be reached, the matter may be reviewed for criminal enforcement pursuant to Section 14-203-10.

Sec. 14-203-14: Defenses

- (a) Any applicable federal or state constitutional or statutory defense may be asserted by a person alleged to be in violation of this section.
- (b) It is a defense that a person alleged to be in violation of this section was acting pursuant to a court order.

Sec. 14-204-15: Education and Public Information

In order to further the intent and objectives of this ordinance, the City Manager or their designee may conduct educational and public information programs.

SECTION 4. Chapter 15 of the City of Denton Code of Ordinances, entitled “Housing,” is hereby repealed in its entirety.

SECTION 5. This Ordinance shall be cumulative of all provisions of ordinances of the City of Denton, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 6. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 7. The City Secretary is hereby directed to record and publish the attached rule, regulation, and policy in the City's Code of Ordinances as authorized by the Texas Local Government Code.

SECTION 8: This Ordinance shall become effective one hundred-twenty (120) calendar days from the date of its passage, and the City Secretary is hereby directed to cause the caption of this Ordinance to be published twice in the *Denton Record-Chronicle*, the official newspaper of the City of Denton, Texas, within ten (10) days of the date of its passage.

The motion to approve this Ordinance was made by Deb Armintor and seconded by Paul Meltzer; this Ordinance was passed and approved by the following vote [5 - 2]:

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Gerard Hudspeth, Mayor:	<u> </u>	<u>✓</u>	<u> </u>	<u> </u>
Vicki Byrd, District 1:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Brian Beck, District 2:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Jesse Davis, District 3:	<u> </u>	<u>✓</u>	<u> </u>	<u> </u>
Alison Maguire, District 4:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Deb Armintor, At Large Place 5:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Paul Meltzer, At Large Place 6:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>

PASSED AND APPROVED this the 22nd day of March, 2022.


GERARD HUDSPETH, MAYOR

ATTEST:
ROSA RIOS, CITY SECRETARY

BY: Rosa Rios



APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Mack Reinwand