



# Citywide Fair Chance Hiring Ordinance

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# Background

- 2-Minute Policy Pitch:
  - Requested by Council Member McGee and supported by Council on August 2, 2022
- Nov. 1, 2022, Work Session
  - Staff presented information on Fair Chance Hiring ordinances and practices
  - Direction to return with more information for further direction

# Proposed Structure

- Incorporate requirements for Fair Chance Hiring under the Comprehensive Non-Discrimination Ordinance (NDO).

## NDO Components



## Proposed Ordinance

- Would **extend protections in employment** for individuals with criminal histories
  - Would **add new definitions** for this protection
  - Would **add hiring regulations that employers must comply with**
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- As a proposed subsection of the NDO, the **existing** complaint, investigation, conciliation, and enforcement **processes and provisions of the NDO would apply**

# Proposed Regulated Hiring Practices

- Among other restrictions, employers would not be able to solicit, inquire about, or consider criminal history information:
  - on a job application
  - **prior to a conditional employment offer**
- Employers cannot take adverse action against an individual due to criminal history except where an individualized assessment is performed
  - Employers must notify the individual if the adverse action was based on criminal history

# Proposed Exclusions

- Would apply to the same employers as NDO
  - Employers with 15 or more employees
- Exclusions:
  - Religious organizations
  - United States Government or its departments and agencies
  - State of Texas or its departments, agencies, and political subdivisions
    - City of Denton already follows Fair Chance Hiring practices; working to formalize through a City employment policy

# Proposed Exclusions

- Would not apply to positions for which an individual may be disqualified based on criminal history under a federal, state, or local law
  - Peace officers, CJIS certifications, insurance, childcare, energy, etc.
- Would not limit the authority of an employer to make a hiring decision for any lawful reason
  - Can withdraw a conditional offer of employment if a candidate is found unsuitable for a job based on an individualized assessment of criminal history

# Proposed Administration and Enforcement

- Administration and enforcement provisions of the NDO apply:
  - Formal complaints must be filed within 90 days of the offense
  - Use of third-party investigator and conciliator
  - Referral of investigations to the municipal prosecutor
  - Class C misdemeanor with a fine of up to \$500 per violation
- If a complaint indicates a violation of federal or state law based on a protected status, will be referred to EEOC or other applicable entity
- Delay of 120 days prior to taking effect to allow for public education

# Additional Considerations

- Costs uncertain and unbudgeted; staff resources limited
- Impacts to businesses:
  - May incur legal costs to ensure compliance with the ordinance, and defend against complaints
  - Confusion, conflict, and potential enforcement challenges where hiring or application processes are managed outside the City
- Enforcement Penalty is a criminal charge (applied to a person and/or entity)

## Recommended Public Engagement

- Discuss Denton (1 mo.)
- Public Hearing(s)
- Public Meeting(s)



# Direction

- Proceed with finalizing a draft Fair Chance Hiring ordinance for public engagement, with specific direction on:
  - Alignment of Administration and Enforcement with the NDO
  - Conditional Offer Being the Threshold for Violation
  - 120-Day Delay in Effective Date
- Other or no direction