

RESOLUTION NO.: R-2019-032

*Adopting a Fair Chance Policy to Prohibit Inquiry into Conviction History Information
or Wage History Information*

WHEREAS, the ability of people with records to successfully reintegrate into their communities contributes to reduced recidivism, strengthens families, and leads to safer communities; and,

WHEREAS, people with records suffer from pervasive discrimination in many areas of life, including employment, housing, education, and eligibility for many forms of social service benefits; and,

WHEREAS, people of color are arrested, convicted, and incarcerated in numbers disproportionate to their representation in the population as a whole; and,

WHEREAS, many people with records in the City are likely to be unemployed or underemployed; and,

WHEREAS, people with records represent a workforce that have skills to contribute and a desire to add value to their community; and,

WHEREAS, the City of Columbia seeks to assist the rehabilitation of people with records and ensure healthier, safer communities; and,

WHEREAS, studies indicate that stable employment is one of the best predictors of post-conviction success; and,

WHEREAS, states and cities across the country have adopted fair chance hiring policies to remove unfair barriers to employment of people with records; and,

WHEREAS, the U.S. Equal Employment Opportunity Commission, to maximize compliance with federal anti-discrimination law, recommends delaying inquiry of a job applicant's conviction history and considering the job-relatedness of the conviction taking into account length of time since conviction, and providing an individualized assessment affording the opportunity to correct any inaccuracies and to submit evidence of mitigation or rehabilitation; and,

WHEREAS, it is the public policy of the City to encourage the employment of people previously convicted; and,

WHEREAS, the gender wage gap has narrowed by less than one-half a penny per year in the United States since 1963, when the Congress passed the Equal Pay Act, the first law aimed at prohibiting gender-based pay discrimination, according to the National Committee on Pay Equity; and,

WHEREAS, in August of 2016, Massachusetts became the first state to enact a law prohibiting employers from seeking or requiring a prospective employee's wage history; and,

ORIGINAL
STAMPED IN RED

ORIGINAL
STAMPED IN RED

WHEREAS, since women are paid on average lower wages than men, basing wages upon a worker's wage at a previous job only serves to perpetuate gender wage inequalities and leave families with less money to spend on food, housing, and other essential goods and services; and,

WHEREAS, salary offers should be based upon the job responsibilities of the position sought and not based upon prior wages earned by the applicant; NOW, THEREFORE,

BE IT RESOLVED by the Mayor and City Council of the City of Columbia, South Carolina this 9th day of July, 2019 that the Human Resources Department shall enact a fair chance policy and prohibit inquiry into conviction history information or wage history information on all City employment applications unless required by state or federal law; and,

BE IT FURTHER RESOLVED, that the City shall make a good faith determination as to which specific positions of employment are of such sensitivity that a background check is warranted or are required by law; and shall conduct background checks for these positions only; and,

BE IT FURTHER RESOLVED, if it has been established that a position requires a background check, the City shall not conduct the check until after the applicant has been provided a conditional offer of employment; and,

BE IT FURTHER RESOLVED, the City shall not use or access the following criminal records in relation to a background check: records of arrest not followed by a valid conviction, sealed, dismissed, or expunged convictions, misdemeanor convictions where no jail sentence can be imposed, and infractions; and,

BE IT FURTHER RESOLVED, that the City shall consider job-related convictions taking into account the length of time since the offense occurred, such that no person shall be disqualified from employment, solely or in part because of a prior conviction, unless it is a job-related conviction; and,

BE IT FURTHER RESOLVED, that if an applicant has been convicted of an offense that is directly related to the position sought, the Human Resources Department shall notify the applicant and conduct an individualized assessment that permits the applicant to submit information regarding inaccuracy of the record and evidence of mitigation or rehabilitation, as appropriate; and,

BE IT FURTHER RESOLVED, the Human Resources Department shall conduct an audit and submit a report to the City Council which will review the City's hiring practices in an effort to ensure that people with records are not unreasonably denied employment with the City; and,

BE IT FURTHER RESOLVED, that the City urges private employers and government contractors to adopt fair hiring practices that encourage the rehabilitation and employment of people with records; and,

BE IT FURTHER RESOLVED, that the City shall not inquire about a prospective employee's wage history, require disclosure of wage history, or condition employment or consideration for an interview or employment on disclosure of wage history, or retaliate against a prospective employee for failing to comply with any wage history inquiry or for otherwise opposing any act made unlawful by this resolution or subsequent related ordinance; and,

ORIGINAL
STAMPED IN RED

BE IT FURTHER RESOLVED, that the City shall not rely on the wage history of a prospective employee from any current or former employer of the individual in determining the wages for such individual at any stage in the employment process, including the negotiation or drafting of any employment contract, unless such applicant knowingly and willingly disclosed his or her wage history to the employer, employment agency, employee, or agent thereof; and,

BE IT FURTHER RESOLVED, that this prohibition on inquiries into wage history shall not apply to any actions taken by an employer, employment agency, or employee or agent thereof, pursuant to federal, state or local law that specifically authorizes the disclosure or verification of wage history for employment purposes.

Requested by:

Mayor Benjamin



Mayor

Approved by:



City Manager

Approved as to form:



City Attorney

ATTEST:



City Clerk

Introduced: 7/9/2019

Final Reading: 7/9/2019