



41 (B) APPLICATION means a written or oral expression of interest in a job by an  
42 individual made in compliance with the employer's established criteria for  
43 receiving expressions of interest.

44  
45 (C) CONDITIONAL EMPLOYMENT OFFER means an oral or written offer by an  
46 employer to employ an individual in a job that is conditioned solely on the  
47 employer's evaluation of the individual's criminal history, and may be conditioned  
48 on any pre-employment medical examinations authorized under the Americans  
49 with Disabilities Act (ADA).

50  
51 (D) CRIMINAL HISTORY means an arrest, conviction, plea of nolo contendere, or  
52 deferred adjudication arising from a felony criminal accusation, or a Class A or  
53 Class B misdemeanor criminal accusation, made under state law, federal law, or a  
54 comparable law of another state of the United States.

55  
56 (E) EMPLOYMENT means work for an employer for pay. The term includes full  
57 time work, part time work, temporary or seasonal work, contract work, casual or  
58 contingent work, work through the services of a temporary or other employment  
59 agency, and participation in a vocational, apprenticeship, or educational training  
60 program.

61  
62 (F) EMPLOYER means a person, company, corporation, firm, labor organization, or  
63 association that employs at least fifteen individuals whose primary work location is  
64 in the City for each working day in each of 20 or more calendar weeks in the  
65 current or preceding calendar year. The term includes an agency acting on behalf  
66 of an employer. The term does not include:

- 67  
68 (1) the United States;  
69  
70 (2) a corporation wholly owned by the government of the United States;  
71  
72 (3) a bona fide private membership club (other than a labor organization) that is  
73 exempt from taxation under Section 501(c)(~~3~~) of the Internal Revenue Code;  
74  
75 (4) the state or a state agency; or  
76  
77 (5) a political subdivision of the state.  
78

Comment [CG1]: Clarification

79 (G) INDIVIDUALIZED ASSESSMENT means an evaluation of the criminal history  
80 of an individual that includes, at a minimum, the following factors:

- 81 (1) the nature and gravity of any offenses in the individual's criminal history;  
82  
83 (2) the length of time since the offense and completion of the sentence; and  
84  
85 (3) the nature and duties of the job for which the individual has applied.

Comment [CG2]: Amendment 1, Part 1

86 (H) JOB means an employment position with an employer for which the employer has  
87 solicited or accepted applications and which the employer is currently attempting  
88 to fill.

89 (H)(I) STAFFING AGENCY means an employer that:

Formatted: Left, Indent: Hanging: 0.38"

- 90 (1) assigns individuals employed by it to perform work for another employer; and  
91  
92 (2) retains the obligation to pay such individuals for the work performed for the other  
93 employer.

#### 94 §4-15-3. APPLICABILITY.

- 95 (A) This chapter applies to an employer.  
96  
97 (B) This chapter does not apply to a job for which a federal, state, or local law, or  
98 compliance with legally mandated insurance or bond requirement disqualifies an  
99 individual based on criminal history.  
100  
101 (C) Nothing in this chapter limits an employer's authority to withdraw a conditional  
102 offer of employment for any lawful reason, including the determination that an  
103 individual's criminal history bears a direct relation to the duties and  
104 responsibilities of the job, and makes the individual unsuitable for the job  
105 individual is unsuitable for the job based on an individualized assessment of the  
106 individual's criminal history.

Formatted: Indent: Left: 0.38", Hanging: 0.5"

Comment [CG3]: Amendment 1, Part 2

#### 107 §4-15-4. FAIR CHANCE HIRING PRACTICES.

- 108 (A) An employer may not publish or cause to be published information about a job  
109 covered by this chapter that states or implies that an individual's criminal history  
110 automatically disqualifies the individual from consideration for the job.  
111

119  
120  
121  
122  
123  
124  
125  
126  
127  
128  
129  
130  
131  
132  
133  
134  
135  
136  
137  
138  
139  
140  
141  
142  
143  
144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158

(B) An employer may not solicit or otherwise inquire about the criminal history of an individual in an application for a job covered by this chapter.

(C) An employer may not solicit criminal history information about an individual or consider an individual’s criminal history unless the employer has first made a conditional employment offer to the individual. This does not preclude an employer from explaining to applicants, in writing, the individualized assessment system that the employer uses to consider criminal history.

Comment [CG4]: Amendment 2

(D) An employer may not refuse to consider employing an individual ~~who submits an application for~~ in a job covered by this chapter because the individual did not provide criminal history information before the individual received a conditional employment offer.

Comment [CG5]: Clarification

(E) 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’s criminal history bears a direct relation to the duties and responsibilities of the job and makes~~ the individual is unsuitable for the job based on an individualized assessment conducted by the employer.

Comment [CG6]: Amendment 1, Part 3

(F) 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.

~~(F)~~(G) Notwithstanding any other part of this chapter, a staffing agency may solicit criminal history information about an individual and make an individualized assessment of an individual’s criminal history when the staffing agency has identified a job to which the individual will be employed.

Formatted: List Paragraph, Left, Right: 0", No bullets or numbering

Formatted: Indent: Left: 0.13", Hanging: 0.75"

**§4-15-5 RETALIATION PROHIBITED.**

An employer may not take adverse action against an individual because the individual has reported a violation of this chapter by an employer, or has participated in an administrative proceeding under this chapter.

**§4-15-~~116~~ ADMINISTRATION.**

(A) The Equal Employment/Fair Housing Office shall:

- 159 (1) educate employers and residents about this chapter;  
160  
161 (2) receive and investigate complaints, including anonymous complaints,  
162 alleging a violation of this chapter;  
163  
164 (3) enforce this chapter;  
165  
166 (4) seek voluntary compliance with this chapter before assessing a civil penalty;  
167 and  
168  
169 (5) adopt rules necessary to implement this chapter.

Comment [CG7]: Clarification

170 (B) To be considered by the Equal Employment/Fair Housing Office, a complaint  
171 alleging a violation of this chapter must be filed with the Equal Employment/Fair  
172 Housing Office no later than the 90<sup>th</sup> calendar day after the individual receives  
173 knowledge of the alleged violation, but in no event later than one year from the  
174 date of the alleged violation.  
175

Comment [CG8]: Amendment 3

176  
177 (C) If the Equal Employment/Fair Housing Office finds that a violation of this  
178 ordinance has occurred, and voluntary compliance cannot be obtained, the Equal  
179 Employment/Fair Housing Office may assess a civil penalty and provide notice  
180 to the employer as provided in §4-15-~~138~~.

#### 181 §4-15-~~712~~ INVESTIGATION OF COMPLAINTS. 182

183 (A) The director of the Equal Employment/Fair Housing Office may subpoena records  
184 or testimony relevant to the investigation of a complaint under this chapter. A  
185 subpoena shall:  
186

- 187  
188 (1) be directed to a person with knowledge or information relevant to a  
189 complaint under this chapter, or to a custodian of records relevant to a  
190 complaint under this chapter;  
191  
192 (2) be in writing and signed by the director of the Equal Employment/Fair  
193 Housing Office;  
194  
195 (3) identify the records or testimony to be produced under the subpoena;  
196  
197 (4) direct the person to whom it is issued to produce the records or provide the  
198 testimony identified in the subpoena at a specific place and time, which shall

199 be not earlier than the 10<sup>th</sup> business day from the date of service of the  
200 subpoena;

- 201
- 202 (5) identify the individual complaint made under this chapter to which the  
203 subpoena relates;
- 204
- 205 (6) state that the subpoena is issued under the authority of this chapter for  
206 purposes of investigating a complaint under this chapter;
- 207
- 208 (7) state that failure to comply with the subpoena is an offense and punishable  
209 as a Class C misdemeanor under this Code; and
- 210
- 211 (8) be served on the person to whom it is directed by certified mail or personal  
212 delivery.

- 213
- 214 (B) A person commits an offense if the person fails to comply with a subpoena issued  
215 and served on the person as provided in subsection (A). The offense is  
216 punishable as a Class C misdemeanor as provided in section 1-1-99 of this Code.  
217 A culpable mental state is not a necessary element of the offense, or required to  
218 be proven for the offense.

219

220 **§4-15-~~813~~ CIVIL PENALTY.**

- 221
- 222 (A) An employer who fails to cease a violation of this chapter by the end of the 10<sup>th</sup>  
223 business day after the day the employer receives written notice of the violation  
224 from the City is liable to the City for a civil penalty of ~~\$500~~ \$100 for that violation.  
225 For a first-time violation, the City may instead issue a warning if the employer  
226 attends an appropriate training session about compliance with this chapter.
- 227
- 228 (B) An employer who violates Section 4-15-4(A) or Section 4-15-4(B) of this chapter  
229 is liable for no more than one civil penalty for each job to which the violation  
230 relates.
- 231
- 232 (C) This section does not create a criminal offense.

233

234 ~~(A)~~ **Part 2.** The Equal Employment/Fair Housing Office may not assess a civil penalty  
235 under section 4-15-~~128~~ for a violation of Chapter 4-15 that occurs before the first second  
236 anniversary of the effective date of this ordinance.

237

Comment [CG9]: Amendment 4

Comment [CG10]: Amendment 5, Part 1

238  
239  
240  
241  
242  
243  
244  
245  
246  
247  
248  
249  
250  
251  
252

**Part 3.** For a violation of Chapter 4-15 ~~this chapter~~ that occurs after the ~~first anniversary of the~~ effective date of this ordinance but before the ~~first-second~~ anniversary of the effective date of this ordinance, the Equal Employment/Fair Housing Office shall issue a written warning to the employer found to be in violation informing the employer that a civil penalty ~~may will~~ be assessed for a violation that occurs after the ~~first-second~~ anniversary of the effective date of this ordinance.

Comment [CG11]: Amendment 5, Part 2

**Part 4.** The council directs the city manager to design and provide a public education campaign to inform employers and residents of the requirements of Chapter 4-15, including a website with best practices for employers.

Comment [CG12]: Amendment 6

**Part 5.** Except as provided in Part 2, this ordinance takes effect on February \_\_\_\_, 2015.

DRAFT