



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.

48  
49 (D) CRIMINAL HISTORY means an arrest, conviction, plea of nolo contendere, or  
50 deferred adjudication arising from a felony criminal accusation, or a Class A or  
51 Class B misdemeanor criminal accusation, made under state law, federal law, or a  
52 comparable law of another state of the United States.

53  
54 (E) EMPLOYMENT means to work for an employer for pay. The term includes full  
55 time work, part time work, temporary or seasonal work, contract work, casual or  
56 contingent work, work through the services of a temporary or other employment  
57 agency, and participation in a vocational, apprenticeship, or educational training  
58 program.

59  
60 (F) EMPLOYER means a person, company, corporation, firm, labor organization, or  
61 association that employs at least fifteen individuals whose primary work location is  
62 in the City for each working day in each of 20 or more calendar weeks in the  
63 current or preceding calendar year. The term includes an agency acting on behalf  
64 of an employer. The term does not include:

- 65  
66 (1) the United States;  
67  
68 (2) a corporation wholly owned by the government of the United States;  
69  
70 (3) a bona fide private membership club (other than a labor organization) that is  
71 exempt from taxation under Section 501(c)(3) of the Internal Revenue Code;  
72  
73 (4) the state or a state agency; or  
74  
75 (5) a political subdivision of the state.

76  
77 (G) INDIVIDUALIZED ASSESSMENT means an evaluation of the criminal history  
78 of an individual that includes, at a minimum, the following factors:  
79

Comment [CG1]: Clarification

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

Comment [CG2]: Amendment 1, Part 1

85  
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  
90 **§4-15-3. APPLICABILITY.**

- 91 (A) This chapter applies to an employer.  
92  
93 (B) This chapter does not apply to a job for which a federal, state, or local law  
94 disqualifies an individual based on criminal history.  
95  
96 (C) Nothing in this chapter limits an employer's authority to withdraw a conditional  
97 offer of employment for any lawful reason, including the determination that an  
98 individual's criminal history bears a direct relation to the duties and  
99 responsibilities of the job, and makes the individual unsuitable for the job  
100 individual is unsuitable for the job based on an individualized assessment of the  
101 individual's criminal history.

Comment [CG3]: Amendment 1, Part 2

102  
103  
104 **§4-15-4. FAIR CHANCE HIRING PRACTICES.**

- 105 (A) An employer may not publish or cause to be published information about a job  
106 covered by this chapter that states or implies that an individual's criminal history  
107 automatically disqualifies the individual from consideration for the job.  
108  
109 (B) An employer may not solicit or otherwise inquire about the criminal history of an  
110 individual in an application for a job covered by this chapter.  
111  
112 (C) An employer may not solicit criminal history information about an individual or  
113 consider an individual's criminal history unless the employer has first made a  
114 conditional employment offer to the individual. This does not preclude an  
115 employer from explaining to applicants, in writing, the individualized assessment  
116 system that the employer uses to consider criminal history.

Comment [CG4]: Amendment 2

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

Comment [CG5]: Clarification

123 (E) An employer may not take adverse action against an individual because of the  
124 individual's criminal history unless the employer has a good faith belief  
125 ~~determined that the individual's criminal history bears a direct relation to the~~  
126 ~~duties and responsibilities of the job and makes~~ the individual is unsuitable for  
127 the job based on an individualized assessment conducted by the employer.

Comment [CG6]: Amendment 1, Part 3

128 (F) An employer who takes adverse action against an individual based on the  
129 individual's criminal history must inform the individual in writing that the  
130 adverse action was based on the individual's criminal history.  
131  
132

#### 133 §4-15-5 RETALIATION PROHIBITED.

134 An employer may not take adverse action against an individual because the individual  
135 has reported a violation of this chapter by an employer, or has participated in an  
136 administrative proceeding under this chapter.  
137  
138

#### 139 §4-15-~~116~~ ADMINISTRATION.

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

- 141 (1) educate employers and residents about this chapter;
- 142 (2) receive and investigate complaints, including anonymous complaints,  
143 alleging a violation of this chapter;
- 144 (3) enforce this chapter;
- 145 (4) seek voluntary compliance with this chapter before assessing a civil penalty;  
146 and
- 147 (5) adopt rules necessary to implement this chapter.

Comment [CG7]: Clarification

148 (B) To be considered by the Equal Employment/Fair Housing Office, a complaint  
149 alleging a violation of this chapter must be filed with the Equal Employment/Fair  
150 Housing Office no later than the 90<sup>th</sup> calendar day after the individual receives  
151  
152  
153  
154  
155

159 knowledge of the alleged violation, but in no event later than one year from the  
160 date of the alleged violation.

Comment [CG8]: Amendment 3

- 161  
162 (C) If the Equal Employment/Fair Housing Office finds that a violation of this  
163 ordinance has occurred, and voluntary compliance cannot be obtained, the Equal  
164 Employment/Fair Housing Office may assess a civil penalty and provide notice  
165 to the employer as provided in §4-15-~~138~~.

166  
167 **§4-15-~~712~~ INVESTIGATION OF COMPLAINTS.**

- 168  
169 (A) The director of the Equal Employment/Fair Housing Office may subpoena records  
170 or testimony relevant to the investigation of a complaint under this chapter. A  
171 subpoena shall:

- 172  
173 (1) be directed to a person with knowledge or information relevant to a  
174 complaint under this chapter, or to a custodian of records relevant to a  
175 complaint under this chapter;  
176  
177 (2) be in writing and signed by the director of the Equal Employment/Fair  
178 Housing Office;  
179  
180 (3) identify the records or testimony to be produced under the subpoena;  
181  
182 (4) direct the person to whom it is issued to produce the records or provide the  
183 testimony identified in the subpoena at a specific place and time, which shall  
184 be not earlier than the 10<sup>th</sup> business day from the date of service of the  
185 subpoena;  
186  
187 (5) identify the individual complaint made under this chapter to which the  
188 subpoena relates;  
189  
190 (6) state that the subpoena is issued under the authority of this chapter for  
191 purposes of investigating a complaint under this chapter;  
192  
193 (7) state that failure to comply with the subpoena is an offense and punishable  
194 as a Class C misdemeanor under this Code; and  
195  
196 (8) be served on the person to whom it is directed by certified mail or personal  
197 delivery.  
198

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

204 **§4-15-~~813~~ CIVIL PENALTY.**

- 205  
206  
207 (A) An employer who fails to cease a violation of this chapter by the end of the 10<sup>th</sup>  
208 business day after the day the employer receives written notice of the violation  
209 from the City is liable to the City for a civil penalty of ~~\$500~~ ~~\$100~~ for that violation.  
210 For a first-time violation, the City may instead issue a warning if the employer  
211 attends an appropriate training session about compliance with this chapter.  
212  
213 (B) An employer who violates Section 4-15-4(A) or Section 4-15-4(B) of this chapter  
214 is liable for no more than one civil penalty for each job to which the violation  
215 relates.  
216  
217 (C) This section does not create a criminal offense.

Comment [CG9]: Amendment 4

Comment [CG10]: Amendment 5, Part 1

218  
219 ~~(A)~~ **Part 2.** The Equal Employment/Fair Housing Office may not assess a civil penalty  
220 under section 4-15-~~128~~ for a violation of Chapter 4-15 that occurs before the first second  
221 anniversary of the effective date of this ordinance.

222  
223 **Part 3.** For a violation of ~~Chapter 4-15~~ this chapter that occurs after the first anniversary of  
224 the effective date of this ordinance but before the first-second anniversary of the effective  
225 date of this ordinance, the Equal Employment/Fair Housing Office shall issue a written  
226 warning to the employer found to be in violation informing the employer that a civil penalty  
227 may will be assessed for a violation that occurs after the first-second anniversary of the  
228 effective date of this ordinance.

Comment [CG11]: Amendment 5, Part 2

229  
230 **Part 4.** The council directs the city manager to design and provide a public education  
231 campaign to inform employers and residents of the requirements of Chapter 4-15, including  
232 a website with best practices for employers.

Comment [CG12]: Amendment 6

233  
234 **Part 5.** Except as provided in Part 2, this ordinance takes effect on February \_\_\_\_, 2015.  
235  
236  
237