



Use and Review of Applicants' Conviction Histories

Administrative
Regulation No. 2.09

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Approved by City Manager:

DocuSigned by:
Alex McIntyre
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1. Overview of Purpose and Scope of this Regulation.

- 1.1 The purpose of this Administrative Regulation is to comply with the provisions of the Fair Employment and Housing Act, Government Code Section 12952 et seq., as it relates to the use and review of applicants' conviction histories.

This Regulation is subject to all applicable state and federal laws, including but not limited to the exceptions contained in Government Code Section 12952(d).

- 1.2. The City and its representatives will not include on any application for employment, before the employer makes a conditional offer of employment to the applicant, any question that seeks the disclosure of an applicant's conviction history.
- 1.3. The City and its representatives will not inquire into or consider the conviction history of the applicant, including any inquiry about conviction history on any employment application, until after the employer has made a conditional offer of employment to the applicant.
- 1.4. The City and its representatives will not consider any of the following while conducting a conviction history background check in connection with any application for employment: (a) an arrest not followed by conviction, except as permitted in paragraph (1) of subdivision (a) and subdivision (f) of Section 432.7 of the California Labor Code; (b) referral to or participation in a pretrial or post-trial diversion program; and (c) convictions that have been sealed, dismissed, expunged, or statutorily eradicated pursuant to law.

2. Regulation.

- 2.1. When the City and its representatives intend to deny an applicant a position of employment solely or in part because of the applicant's conviction history, the City and its representatives shall make an individualized assessment of whether the applicant's conviction history has a direct and adverse relationship with the specific duties of the job

that justify denying the applicant the position, which shall include consideration of the following by the City:

- a) the nature and gravity of the offense or conduct;
- b) the time that has passed since the offense or conduct and completion of the sentence; and
- c) the nature of the job held or sought.

2.2. The City and its representatives will provide job applicants with written notification of its preliminary decision that an applicant's conviction history disqualifies the applicant from employment, and such written notification shall include the following information:

- a) notice of the disqualifying conviction or convictions that are the basis for the preliminary decision to rescind the job offer;
- b) a copy of the conviction history report, if any;
- c) an explanation of the applicant's right to respond to the notice of the City's preliminary decision before the decision becomes final, and the deadline by which to respond;
- d) notice that the applicant's response to the preliminary decision may include submission of evidence challenging the accuracy of the conviction history report that is the basis for rescinding the job offer, evidence of rehabilitation and evidence of mitigating circumstances, or both.

2.3. When the City and its representatives make a final decision to deny an applicant employment solely or in part because of an applicant's conviction history, the City will notify the applicant in writing of the following:

- a) the final denial or disqualification;
- b) any existing procedure the City has for the applicant to challenge the decision or request reconsideration; and
- c) the applicant's right to file a complaint with the Civil Rights Department formerly known as the Department of Fair Employment and Housing regarding the final decision.