



Legislation Details (With Text)

**File #:** 14-0921      **Version:** 1      **Name:** Ordinance: Repealing and Replacing Ban The Box  
**Type:** Ordinance      **Status:** Filed  
**File created:** 6/18/2014      **In control:** Administration  
**On agenda:** 3/18/2015      **Final action:** 4/15/2015

**Title:** ORDINANCE REPEALING ORDINANCE 6PSF-f ADOPTED ON SEPTEMBER 19, 2012, "ORDINANCE TO ASSIST THE SUCCESSFUL REINTEGRATION OF FORMERLY INCARCERATED PEOPLE INTO THE COMMUNITY BY REMOVING BARRIERS TO GAINFUL EMPLOYMENT AND STABLE HOUSING AFTER THEIR RELEASE FROM PRISON; AND TO ENHANCE THE HEALTH AND SECURITY OF THE COMMUNITY BY ASSISTING PEOPLE WITH CRIMINAL CONVICTIONS IN REINTEGRATING INTO THE COMMUNITY AND PROVIDING FOR THEIR FAMILIES" AND REPLACING IT WITH "ORDINANCE TO ASSIST THE SUCCESSFUL REINTEGRATION OF FORMERLY INCARCERATED PEOPLE INTO THE COMMUNITY BY REMOVING BARRIERS TO STABLE HOUSING AFTER THEIR RELEASE FROM PRISON, AND TO ENHANCE THE HEALTH AND SECURITY OF THE COMMUNITY AND PROVIDING FOR THEIR FAMILIES" (Ban the Box Ordinance)

Sponsors: James/ Quintana/ Chaneyfield Jenkins

**Sponsors:** John Sharpe James, Luis A. Quintana, Gayle Chaneyfield Jenkins

**Indexes:**

**Code sections:**

Date	Ver.	Action By	Action	Result
4/15/2015	1	Municipal Council	Close on Public Hearing and Adopt	Pass
4/1/2015	1	Municipal Council	Adopt on First Reading	Pass
3/18/2015	1	Municipal Council	Advance to First Reading	Pass

**ORDINANCE REPEALING ORDINANCE 6PSF-f ADOPTED ON SEPTEMBER 19, 2012, "ORDINANCE TO ASSIST THE SUCCESSFUL REINTEGRATION OF FORMERLY INCARCERATED PEOPLE INTO THE COMMUNITY BY REMOVING BARRIERS TO GAINFUL EMPLOYMENT AND STABLE HOUSING AFTER THEIR RELEASE FROM PRISON; AND TO ENHANCE THE HEALTH AND SECURITY OF THE COMMUNITY BY ASSISTING PEOPLE WITH CRIMINAL CONVICTIONS IN REINTEGRATING INTO THE COMMUNITY AND PROVIDING FOR THEIR FAMILIES" AND REPLACING IT WITH "ORDINANCE TO ASSIST THE SUCCESSFUL REINTEGRATION OF FORMERLY INCARCERATED PEOPLE INTO THE COMMUNITY BY REMOVING BARRIERS TO STABLE HOUSING AFTER THEIR RELEASE FROM PRISON, AND TO ENHANCE THE HEALTH AND SECURITY OF THE COMMUNITY AND PROVIDING FOR THEIR FAMILIES" (BAN THE BOX ORDINANCE)**

**Sponsors: James/ Quintana/ Chaneyfield Jenkins**

**WHEREAS**, 65 million Americans- 1 in 4 adults have a criminal record; and

**WHEREAS**, Newark, the largest city in the State of New Jersey, with a population of more than 280,000 reportedly has the highest per capita number of parolees of any U.S. city; and

**WHEREAS**, in 2010, Newark was 52.4% Black, 33.8% Latino, and 11.6% Non-Hispanic White; and

**WHEREAS**, an arrest, without any conviction, can serve as a barrier to employment and housing, resulting in punishment of the innocent; and

**WHEREAS**, more than 1,700 individuals return to Newark from state prison annually and an additional 1,400 Newark residents are released from the Essex County Correctional Facility every month; and

**WHEREAS**, similar to many urban jurisdictions, more than 6,500 Newark residents are under Federal Probation, State Parole or County Probation at any given time; and

**WHEREAS**, 3,885 Essex County residents were in New Jersey Department of Corrections custody in 2010, representing sixteen (16%) percent of the total incarcerated population; and

**WHEREAS**, many more Newark and Essex County residents, who are or have been involved in the criminal justice system have been sentenced to probation and were never incarcerated; and

**WHEREAS**, the American Bar Association identified over 38,000 statutes imposing collateral consequences on individuals with a criminal record, many of which discourage work and responsibility; and

**WHEREAS**, a recent report on these collateral barriers ranked New Jersey as the 44<sup>th</sup> worst state, meaning it had more statutes creating collateral consequences than all but six (6) states; and

**WHEREAS**, ninety-five (95%) percent of people admitted to prison eventually return to their communities of origin; and

**WHEREAS**, an estimated sixty-two (62%) percent of those returning to Newark will be re-arrested, re-convicted, or re-incarcerated within three (3) years of their release; and

**WHEREAS**, as of 2008, Blacks, Latinos and Whites made up, respectively, 39.2%, 33.3%, 20.6% of the prison population; and

**WHEREAS**, two-thirds of people returning to their communities from prison are racial minorities, compared to one-third of the general population; and

**WHEREAS**, commercially run criminal background checks commonly contain errors and

inaccuracies and even FBI background checks are out of date fifty percent (50%) of the time; and

**WHEREAS**, barriers to employment and housing based on criminal records disproportionately affect racial and ethnic minorities; and

**WHEREAS**, many individuals with criminal records represent a group of job seekers, ready to compete for employment and contribute to society; and

**WHEREAS**, finding and securing adequate housing is one of the most difficult reentry challenges faced by formerly incarcerated persons; and

**WHEREAS**, the need for housing is both immediate and long-term; it begins immediately upon release from prison when individuals turn to temporary housing options, and becomes more urgent as formerly incarcerated individuals seek a suitable long-term housing option; and

**WHEREAS**, individuals with access to stable housing are less likely to be re-incarcerated than prisoners with no place to go upon release; and

**WHEREAS**, homelessness is prevalent among people released from prison and jail. One-tenth of individuals entering prisons have recently been homeless; at least as many of those who leave prisons also end up homeless; and

**WHEREAS**, access to stable housing options--public housing, affordable housing, private rental housing, and transitional and supportive housing-is limited or unavailable to formerly incarcerated persons; and

**WHEREAS**, federal and local housing authorities' laws regarding eligibility for public housing frequently exclude the formerly incarcerated from federally subsidized housing; and

**WHEREAS**, even without restrictions on eligibility for public housing assistance, federally subsidized housing is unlikely to meet the immediate or long-term needs of the formerly incarcerated. Studies estimate that only one-third of all eligible individuals and families actually gain access to public housing units or housing choice vouchers. In Newark, the waiting period for the Housing Choice Voucher Program is exceptionally long-10 years; and

**WHEREAS**, affordable housing is scarce, and former prisoners often return to communities with more severe shortages of affordable housing. This is a major obstacle, as individuals released from prison and jail have difficulty finding and maintaining employment, and because of limited work histories, will likely end up with jobs that provide low incomes; and

**WHEREAS**, private-market rental housing is closed to many individuals transitioning from prison or jail because landlords are unwilling to rent to people with criminal records, whether for arrest or

conviction; and

**WHEREAS**, persons with criminal records are not a protected class and are therefore susceptible to wide ranging discrimination based on their criminal record when seeking housing, irrespective of the severity of their crime, the time elapsed since committing the crime or evidence of rehabilitation; and

**WHEREAS**, screening tenants for apartments based on criminal records disproportionately affects racial and ethnic minorities, which could provide evidence of numerous violations of Title VIII based on disparate impact; and

**WHEREAS**, the Supreme Court's ruling in *Alexander v. Sandoval* strips individuals of the right to pursue a private cause of action for disparate impact and since there has been a lack of disparate impact litigation brought forth by federal agencies, these persons have no recourse to bring Title VIII claims; and

**WHEREAS**, landlords routinely conduct criminal background checks for apartment applicants, and those with criminal histories are the most likely to be rejected; and

**WHEREAS**, returning prisoners must overcome many barriers to access rental housing in the private market, including affordability, stigma of criminal history, unwillingness of landlords to consider them for tenancy, and community objection due to public safety concerns, whether well founded or not; and

**WHEREAS**, securing employment and stable housing significantly reduces the risk of recidivism; and

**WHEREAS**, the removal of obstacles to employment and housing for people with prior convictions increases public health and safety by providing economic and social opportunities to a large group of people living in Newark; and

**WHEREAS**, the costs to New Jersey citizens and the people of New Jersey in terms of incarceration tops out at an estimated \$48,000.00 per year; and

**WHEREAS**, the cycle of arrest, incarceration and recidivism is detrimental to the community, contributing to unemployment and family destabilization, and disrupting the economic and social fabric of communities; and

**WHEREAS**, it is the intent and purpose of this law to assist the successful reintegration of formerly incarcerated people into the community by removing barriers to gainful employment and stable housing after their release from prison; and

**WHEREAS**, it is the intent and purpose of this law to enhance the health and security of the community by assisting people with criminal convictions in reintegrating into the community and providing for their families.

**NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:**

**Section 1.** The Revised General Ordinances of the City of Newark, New Jersey, 2000, be amended as follows:

### **Article One - Housing**

I. **Definitions.** As used in this Article,

- a. "Real property" shall mean real estate, lands, multiple dwellings and hereditaments, corporeal incorporeal, and leaseholds, provided however that the provisions of this Article shall not apply to the rental:
  - i. of a single apartment or flat in a two (2) family dwelling, the other occupancy unit of which is occupied by the owner as his/her residence or the household of his/her family at the time of such rental; or
  - ii. of a room or rooms to another person or persons by the owner or occupant of one-family dwelling occupied by him/her as his/her residence or the household of his/her family at the time of such rental.
- b. "Applicant" shall mean any person or persons seeking to rent, lease or sublease real property or who requests information from a landlord or real estate broker related to seeking a rental, lease, or sublease of real property.
- c. "Landlord" shall mean the owner, lessee, sub lessee, assignee, managing agent, other person having the right to rent, lease, or sublease any real property or part or portion thereof, or employee or agent thereof.
- d. "Real estate broker" shall mean a person, company, corporation, firm, or association who, for a fee, commission or other valuable consideration, or by reason of promise or reasonable expectation thereof, exchanges, buys, or rents or offers or attempts to offer an exchange or rental of real estate or an interest therein, or collects or offers or attempts to collect rent for the use of real estate, or assists or directs in the procuring of prospects or the negotiation or closing of any transaction which does or is contemplated to result in the exchange, leasing, or renting of any real estate.
- e. "Conviction" shall mean any sentence arising from a verdict or plea of guilty or nolo

contendere, including a sentence of incarceration, a suspended sentence, a sentence of probation, or a sentence of unconditional discharge.

- f. "Inquiry" shall mean any direct or indirect conduct intended to gather information from or about an applicant, using any mode of communication, including but not limited to application forms, interviews, or criminal history checks from government databases or private credit reporting agencies.
- g. "Formal application" shall mean a submission by the applicant of any and all materials or information required to be reviewed by a landlord or real estate broker before the rent, lease, or sublease of real property.
- h. "Advertisement" shall mean any circulation, mailing, posting, or other form of publication, utilizing any media, promoting the landlord or real estate broker or intending to alert its audience or prospective applicants of availability of real property for rent, lease, or sublease.

II. Criminal Record Check Practices. In connection with any rental, lease, or sublease of real property,

- a. Inquiry into and consideration of any applicant's criminal history shall take place only after the applicant has submitted a formal application. Notwithstanding the foregoing, if the applicant discloses any information regarding his or her criminal history by unsolicited voluntary written or oral disclosure, the landlord or real estate broker may discuss the criminal history disclosed by the applicant.
- b. Prior to conducting any criminal history inquiry regarding an applicant, the landlord or real estate broker shall provide standard written notification to the applicant:
  - i. Advising that, upon the written consent of the applicant, the landlord or real estate broker will conduct a criminal history inquiry;
  - ii. Advising that upon consenting to a criminal history inquiry, the applicant has the right and opportunity of not less than three business days from the receipt of notice to submit evidence which may inform the consideration under Section IV of this Article; and
  - iii. Advising that the applicant has the right to receive a copy, upon the applicant's request, of the results of any criminal history inquiry obtained regarding the applicant.
  - iv. Attaching a copy of the Information Form Regarding Criminal Record Review - Housing, attached hereto as Appendix A.
- c. A landlord or real estate broker may hold a housing unit open until an applicant provides information about rehabilitation, but a landlord or real estate broker is not required to hold a

housing unit after making an initial determination of an applicant's eligibility.

III. Scope of Inquiry. In connection with any rental, lease, or sublease,

- a. Subject to the terms of this Article, a landlord or real estate broker shall be permitted to inquire about
  - i. indictable offense convictions in New Jersey (or, if from any other state or jurisdiction, convictions for conduct which, if committed in New Jersey, would constitute an indictable offense) for eight (8) years following the release from post-conviction custody or from the date of sentencing if the person was not incarcerated;
  - ii. disorderly persons convictions or municipal ordinance violations in New Jersey (or, if from any other state or jurisdiction, convictions for conduct which, if committed in New Jersey, would constitute a disorderly persons offense or municipal ordinance violation) for five (5) years following the release from post-conviction custody or from the date of sentencing if the person was not incarcerated; and
  - iii. pending criminal charges.
- b. Notwithstanding Section III(a) herein, all prior disorderly persons and indictable offense convictions (or, if from any other state or jurisdiction, convictions for conduct which, if committed in New Jersey, would constitute an indictable offense or disorderly persons conviction) may be considered by the employer if any of the subject's convictions may be considered pursuant to Section III, Subsections (a), or (c) herein, of this section, unless they are deemed impermissible pursuant to Section III(d) herein.
- c. Notwithstanding Section III(a) herein, and subject to the terms of this Article, a landlord or real estate broker shall be permitted to consider convictions for murder, attempted murder, arson-related offenses, sex offenses requiring registry under N.J. S.A. 2C Chapter 2C:7-1, et seq. that are punishable by a term of incarceration in state prison, and any crime listed in 18 U.S.C. Chapter 113B - Terrorism or N.J.S.A. 2C:-38-1, et seq. - September 11<sup>th</sup>, 2001 Anti-Terrorism Act (or in any other state or jurisdiction, convictions for conduct which, if committed in New Jersey, would constitute a violation of N.J.S.A. 2C:38-1, et seq.), regardless of when they occurred.
- d. It shall not be permissible for a landlord or real estate broker to conduct any criminal history inquiry, require any person to disclose or reveal, or to take any adverse action against any person on the basis of
  - i. any arrest or criminal accusation made against such person which is not then pending against that person and which did not result in a conviction;
  - ii. any records which have been erased, expunged, the subject of an executive

pardon, or otherwise legally nullified; or

- iii. any juvenile adjudications of delinquency or any records which have been sealed.

IV. Required Considerations. In connection with any rental, lease, assignment, or sublease,

- a. A landlord or real estate broker shall consider the following factors in evaluating the applicant and the results of any criminal history inquiry, conducted in accordance with the limitations of Section III:
  - i. Any information, if provided, pertaining to the degree of rehabilitation and good conduct or to the accuracy of the criminal record in question produced by the applicant, or produced on his or her behalf to the landlord or real estate broker, including but not limited to any certificate of rehabilitation issued by any state or federal agency, which includes but is not limited to certificates issued pursuant to N.J.S.A. 2A:168A-1 to 16;
  - ii. The amount of time that has passed since the conviction(s) and/or release from custody; and
  - iii. The nature of and circumstances surrounding the crime(s).

V. Notice. In connection with any adverse decision regarding a rental, lease, or sublease,

- a. If after conducting a criminal history inquiry the landlord or real estate broker makes a final determination adverse to the applicant resulting in the refusal of any rental, lease, assignment, or sublease, the landlord or real estate broker shall, within ten (10) business days
  - i. notify the applicant in writing of the adverse action, stating the reasons for rejection and including the landlord's or real estate broker's consideration of factors required under Section IV of this Article; and
  - ii. provide the applicant with a copy of the results of the criminal history inquiry.
- b. A copy of all documents and notices required under Section V(a) herein shall be sent in one mailing, by registered mail, to the applicant.

VI. Confidentiality. In connection with any rental, lease, or sublease,

- a. any information pertaining to an applicant's criminal history obtained in conjunction with the rental, lease, or sublease process
  - i. shall remain confidential;

- ii. shall only be shared with individuals who have a need to know for the purpose of evaluating applicants in a manner consistent with this Article;
- iii. shall not be used, distributed, or disseminated by the landlord or real estate broker for any use other than those described in this Article; and
- iv. shall not be used, distributed, or disseminated by the landlord or real estate broker to any other entity or individual, except as dictated by law.

## VII. Advertisements.

- a. In connection with any rental, lease, or sublease, it shall be unlawful for a landlord or real estate broker to produce or disseminate any advertisement that directly or indirectly references the use or consideration of an applicant's criminal history, except that nothing in this Section shall preclude the expression of statutory, regulatory, or rule-based eligibility restrictions applicable to the rental, lease or sublease of real property as described in Section VIII(a) herein so long as such expression is limited to the specified offense(s) and time period(s) as established by law.
- b. In any action against any landlord or real estate broker under this section, any such advertisement shall be presumptive evidence that the any landlord or real estate broker authorized the advertisement.

## VIII. Exemptions.

- a. The prohibitions of this Article shall not apply:
  - i. Where any federal or state law, regulation, or rule requires or permits the consideration of an applicant's criminal history in the rental, lease, or sublease of real property, provided the exemption is limited to those offenses or types of offenses and time periods that federal or state law, regulation, or rule requires or permits the landlord or real estate broker to consider.
  - ii. To any real property designated by the landlord or real estate broker to participate in a federal, state, or local government program or obligation that is designed to encourage the provision of housing for individuals with criminal histories.
- b. It is the intent of the Municipal Council that exceptions under this Article be interpreted narrowly.

## IX. Enforcement.

- a. The City of Newark Business Administrator shall designate an Office or Department that shall enforce the provisions of this Article.
- b. **A first violation shall be subject to a fine of up to \$500.00. Each subsequent violation shall be subject to a fine of up to \$1,000.00.**

## **Article Two - Licensing.**

### I. Definitions. As used in this Article:

- a. "Applicant" shall mean any person considered or who requests to be considered for a license by the City or who requests information from the City related to seeking a license.
- b. "Conviction" shall mean any sentence arising from a verdict or plea of guilty or *nolo contendere*, including a sentence of incarceration, a suspended sentence, a sentence of probation, or a sentence of unconditional discharge.
- c. "City" shall mean the City of Newark, or any City department, agency, board, or commission or any employee or agent thereof.
- d. "Formal application" shall mean a submission by the applicant of any and all materials or information required to be reviewed by the City before the granting of a license.
- e. "Inquiry" shall mean any direct or indirect conduct intended to gather information from or about an applicant for a license, using any mode of communication, including but not limited to application forms, interviews, and criminal history checks.
- f. "License" shall mean any certificate, license, permit, authorization, or grant of permission required by the City as a condition for the lawful practice of any occupation, employment, trade, vocation, business, or profession. "License" shall not, for the purposes of this Article, include any license, authorization or permit to own, possess, carry, or fire any explosive, pistol, handgun, rifle, shotgun, or other firearm.
- g. "Otherwise qualified" shall mean any applicant who meets all other criteria for a license, pursuant to the applicable provisions of the Revised General Ordinances of Newark.

### II. Criminal Record Check Practices. In connection with any decision regarding a license,

- a. Inquiry into and consideration of any applicant's criminal history shall take place only after the applicant has submitted a formal application and has been found otherwise qualified to receive a license from the City. Notwithstanding the foregoing, if the applicant discloses any information regarding his or her criminal history by unsolicited voluntary written or oral disclosure, the City may discuss the criminal history disclosed by the applicant.
- b. Prior to conducting any criminal history inquiry regarding an applicant, the City shall provide standard written notification to the applicant:
  - i. Advising that, upon the written consent of the applicant, the City will conduct a criminal history inquiry;
  - ii. Advising that, following any adverse decision by the City retracting the conditional offer of license, the applicant will have the right and opportunity to present evidence as required by Section VI herein, and describing the kinds of evidence the applicant may present at that time; and
  - iii. Attaching a copy of the Information Form Regarding Criminal Record

Review - Licensing, attached hereto as Appendix C.

- III. Scope of Inquiry. In connection with any decision by the City regarding a license,
- a. Subject to the terms of this Article, the City shall be permitted to inquire about
    - i. indictable offense convictions in New Jersey (or, if from any other state or jurisdiction, convictions for conduct which, if committed in New Jersey, would constitute an indictable offense) for eight (8) years following the release from post-conviction custody or from the date of sentencing if the person was not incarcerated;
    - ii. disorderly persons convictions or municipal ordinance violations in New Jersey (or, if from any other state or jurisdiction, convictions for conduct which, if committed in New Jersey, would constitute a disorderly persons offense or municipal ordinance violation) for five (5) years following the release from post-conviction custody or from the date of sentencing if the person was not incarcerated; and
    - iii. pending criminal charges.
  - b. Notwithstanding Section III (a) herein, all prior disorderly persons and indictable offense convictions (or, if from any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute an indictable offense or disorderly persons conviction) may be considered by the employer if the subject's most recent conviction may be considered pursuant to Section III subsections (a) or (c), of this section, unless they are deemed impermissible pursuant to Section III (d) herein.
  - c. Notwithstanding subsection, Section III(a) herein, and subject to the terms of this Article, the City shall be permitted to consider convictions for murder, attempted murder, arson-related offenses, sex offenses requiring registry as defined under N.J.S.A. Title 2C: 7-1, et seq., that are punishable by a term of incarceration in state prison, and any crime listed in 18 U.S.C. Chapter 113B - Terrorism or N.J.S.A. 2C:38 - 1. et seq., September 11<sup>th</sup>, 2001 Anti-Terrorism Act (or, if from any other state or jurisdiction, convictions for conduct which, if committed in New Jersey, would constitute a violation of N.J.S.A. 2C:-38-1, et seq., ), regardless of when they occurred.
  - d. It shall not be permissible for the City to conduct any criminal history inquiry, require any person to disclose or reveal, or to take any adverse action against any person on the basis of
    - i. any arrest or criminal accusation made against such person which is not then pending against that person and which did not result in a conviction;

- ii. any records which have been erased, expunged, the subject of an executive pardon, or otherwise legally nullified; or
- iii. any juvenile adjudications of delinquency or any records which have been sealed.

IV. Required Considerations. In connection with any decision regarding a license:

- a. The City shall consider the following factors in evaluating the applicant and the results of any criminal history inquiry, conducted in accordance with the limitations of Section III:
  - i. Any information, if provided, pertaining to the degree of rehabilitation and good conduct or to the accuracy of the criminal record in question produced by the applicant, or produced on his or behalf to the City, including but not limited to any certificate of rehabilitation issued by any state or federal agency, which includes but is not limited to certificates issued pursuant to N.J.S.A. 2A:168A-1 to 16;
  - ii. The amount of time that has passed since the conviction(s) and/or release from custody; and
  - iii. The nature of and circumstances surrounding the crime(s).

V. Notice. In connection with any adverse decision regarding a license,

- a. If after conducting a criminal history inquiry the City makes a final determination adverse to the applicant resulting in the refusal of a license, the City shall, within a reasonable period of time:
  - i. provide the applicant with a copy of the results of the criminal history inquiry;
  - ii. provide the applicant with a written notice of rejection, specifically stating the reasons for rejection and including the City's consideration of the factors required under Section IV herein; and
  - iii. advise the applicant of the opportunity for review under Section VI herein, including how the applicant may present evidence related to the City's consideration of the factors required under Section IV herein, and what kinds of evidence the applicant may present at that time.
- b. A copy of all documents and notices required under Section V (a) herein shall be mailed in one package by registered mail to the applicant.

VI. Opportunity for Review. In connection with any adverse decision regarding a license,

- a. The applicant shall have ten (10) business days after receipt of the documents and notices required under Section V herein to respond to the City regarding the results of the criminal history inquiry. The City shall provide the applicant with an opportunity to present information and evidence related to the accuracy and/or relevance of the results of the criminal history inquiry, including information pertaining to any of the factors listed in Section IV(a) herein. The City must review all information and

documentation received from the applicant prior to taking any final action as to whether to grant the applicant a license.

- b. The City shall document in writing the information and evidence provided by the applicant under Section VI(a) herein, the City's consideration of this information and evidence, and the City's final action, specifically stating the reasons for the final action taken. The City must, within a reasonable period of time, notify the applicant of the final action and provide the applicant a copy of the writings required under this subsection.

VII. Confidentiality. In connection with any decision regarding a license,

- a. Any information obtained by the City that pertains to an applicant's criminal history
  - i. shall remain confidential;
  - ii. shall only be shared with individuals who have a need to know the contents for the purpose of evaluating applicants in a manner consistent with this Article;
  - iii. shall not be used, distributed, or disseminated by the City for any use other than those described in this Article; and
  - iv. shall not be used, distributed, or disseminated by the City to any other entity or individual, except as dictated by law.

VIII. Exemptions.

- a. The prohibitions of this Article shall not apply:
  - i. Where any federal or state law, regulation, or rule requires or permits the consideration of an applicant's criminal history for purposes of a City license, provided the exemption is limited to those offenses or types of offenses and time periods that federal or state law, regulation, or rule requires or permits the City to consider; and
  - ii. To any license sought in conjunction with a federal, state, or local government program or obligation that is designed specifically to encourage the licensing, employment, or entrepreneurship of individuals with criminal histories.
- b. It is the intent of the Municipal Council that exceptions under this Article be interpreted narrowly.

IX. Enforcement. The City of Newark Business Administrator shall designate an Office or

Department that shall enforce the provisions of this Article.

### **Article Three - Repeal of Previous Ordinance**

- I. Ordinance REPEALING 6PSF-f, September 19, 2012, , “ORDINANCE TO ASSIST THE SUCCESSFUL REINTEGRATION OF FORMERLY INCARCERATED PEOPLE INTO THE COMMUNITY BY REMOVING BARRIERS TO GAINFUL EMPLOYMENT AND STABLE HOUSING AFTER THEIR RELEASE FROM PRISON; AND TO ENHANCE THE HEALTH AND SECURITY OF THE COMMUNITY BY ASSISTING PEOPLE WITH CRIMINAL CONVICTIONS IN REINTEGRATING INTO THE COMMUNITY AND PROVIDING FOR THEIR FAMILIES.” .

**SECTION 2. Severability.** If any provision of this Ordinance shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

**SECTION 3. Implementation.** This ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

### **STATEMENT:**

This ordinance repeals and replaces the original “Ban the Box” ordinance with a new ordinance which prohibits landlords and the City of Newark from using the criminal history of an applicant being considered for housing during the initial interview or prior to the submission of an application for a license.

APPENDIX A

APPENDIX B