

shall not exceed \$109,300, which shall be funded from the 2015-16 Budget of the Bureau of Communications. For the third year, the agreement shall not exceed \$112,400, which shall be funded from the 2016-17 Budget of the Bureau of Communications. For the fourth year, the agreement shall not exceed \$116,600 which shall be funded from the 2017-18 Budget of the Bureau of Communications. All funding shall be contingent upon adoption of the necessary budgets.

Section 2. The agreement shall contain such additional terms and conditions as the Mayor deems to be appropriate.

Section 3. This ordinance shall take effect immediately.

Passed unanimously.

By President Scott  
May 20, 2014

To the Council:

The Committee Of The Whole recommends for adoption the following entitled legislation:

Int. No. 183 - Amending Chapter 63 Of The Municipal Code With Regard To Fair Employment Screening, As Amended

Respectfully submitted,  
Carolee A. Conklin  
Matt Haag  
Adam C. McFadden  
Jacklyn Ortiz  
Michael A. Patterson  
Elaine M. Spaul  
Dana K. Miller  
Loretta C. Scott  
**COMMITTEE OF THE WHOLE**

Received, filed and published.

President Scott moved to amend Introductory No. 183.

Motion was seconded by Councilmember Spaul.

Passed unanimously.

TO THE COUNCIL  
Ladies and Gentlemen:

Ordinance No. 2014-155  
Re: Ban The Box

Transmitted herewith for Council approval is legislation for "Ban The Box"; an initiative requiring both public and private employers in the City of Rochester to wait until someone is selected for an interview before asking about their criminal records. Due to the nature of the question, people with former felony convictions are severely disadvantaged and this legislation would greatly help to achieve and maintain a person's positive reentry.

Since one of the leading factors in preventing reci-

divism is employment, this measure will help to eliminate discrimination against ex-offenders and help put people to work and allow them to be successful and productive members of our community. This legislation is not intended to discourage employers from doing background checks and any other due diligence to ensure that their employees and customers, clients or people they serve are safe. This legislation is intended to eliminate the discrimination that centers on this "Box" when checked.

I am holding a public forum on May 13<sup>th</sup> at 6:30 p.m. in Council Chambers to solicit input from our community and the people we serve on this topic.

Respectfully submitted,  
Adam C. McFadden  
Chair, Public Safety, Youth & Recreation  
South District Representative

Ordinance No. 2014-155  
(Int. No. 183, As Amended)

**Amending Chapter 63 Of The Municipal Code With Regard to Fair Employment Screening**

BE IT ORDAINED by the Council of the City of Rochester as follows:

Section 1. Chapter 63 of the Municipal Code of the City of Rochester is hereby amended by adding a new Article II thereto to read as follows:

Article II. Fair Employment Screening

§63-12 Fair Employment Screening

The City of Rochester, its vendors, and any employer located within the City of Rochester shall not make any inquiry regarding or pertaining to an applicant's prior criminal conviction on any initial employment application. Consideration of an applicant's prior criminal conviction(s) shall take place only after an employment application is submitted and after any initial employment interview.

§63-13 Definitions

For purposes of this article, the following terms shall have the following meanings:

- A. "Applicant": Any person considered or who requests to be considered for employment by an employer.
- B. "City": The City of Rochester, its departments, administrative units and agencies.
- C. "Criminal Conviction": Any judgment of conviction of a criminal offense in this state or any other jurisdiction, including but not limited to adjudication as a juvenile delinquent or youthful offender. Entry of a plea of guilty, or a verdict of guilty, for a misdemeanor or felony offense in this state or any other jurisdiction.

- D. "Employment": Any work for pay, including temporary or seasonal work, contracted work, contingent work, and work through the services of a temporary, job placement, referral, or other employment agency, for any work or position for which the primary place of work is located within the City of Rochester. "Employment" shall not, for the purposes of this article, include employment by any government law enforcement agency or any position classified as a police officer or peace officer pursuant to the Criminal Procedure Law.
- E. "Employer": The City, its vendors, or any entity that employs persons in a any position for which the primary place of work is located within the City of Rochester including a person, partnership, company, business corporation, limited liability company, public corporation, labor organization, not-for-profit corporation, or association, ~~including but not limited to~~ "Employer" shall also include temporary, job placement, referral, or other employment agencies. "Employer" shall not include an employer with fewer than four persons in ~~his or her~~ its employ.
- F. "Interview": Any direct contact by the employer with the applicant whether in person or by telephone, to discuss the employment being sought or the applicants' qualifications.
- G. "Vendor": Any vendor, contractor, or supplier of goods or services to the City of Rochester, including vendors located outside the City of Rochester limits.

#### §63-14 Fair Employment Screening Standards

- A. It shall be an unlawful discriminatory practice for the City, its vendors, and any employer located within City limits to make any inquiry regarding, or to require any person to disclose or reveal, any criminal conviction during the application process. The "application process" shall be deemed to begin when the applicant inquires about the employment sought and shall end when an employer has conducted an initial employment interview or made a conditional offer of employment.
- B. If an employer does not conduct an interview, that employer must inform the applicant whether a criminal background check will be conducted before employment is to begin.
- C. The City, its vendors, and any employer hiring for licensed trades or professions, including positions such as interns and apprentices for such licensed positions, may make an inquiry of applicants about prior criminal convictions if such inquiry is required by a licensing authority or by New York State or Federal Law.

- D. The City, its vendors, and any employer hiring for positions where certain convictions are a bar to employment in that position under New York State or Federal Law, shall not be prohibited from making inquiries about those convictions during the application process.
- E. The City, its vendors, and any employer shall comply with Article 23-A of the New York State Correction Law and the Fair Credit Reporting Act, 15 USC §1681, et seq. when considering an applicant's prior criminal convictions in determining suitability for employment. In accordance with Article 23-A, nothing in this ordinance shall be construed to limit an employer's authority to withdraw conditional offers of employment for any lawful reason, including the determination that the candidate has a conviction that bears a direct relationship to the duties and responsibilities of the position sought, or that hiring would pose an unreasonable risk to property or to the safety of individuals or the general public.
- F. In compliance with Executive Law § 296 subdivision 16 (Human Rights Law) and the Family Court Act, employers are prohibited from asking at any time for applicants to disclose information about any arrest that resulted in a Youthful Offender Adjudication pursuant to Criminal Procedure Law § 720.35; any arrest that was processed as a Juvenile Delinquency proceeding in Family Court; any arrest that resulted in a sealing pursuant to Criminal Procedure Law (CPL) § 160.50 or CPL § 160.55; any conviction that was sealed pursuant to CPL § 160.58, unless said inquiry is specifically required or permitted by New York State or Federal law.

#### §63-15 Exceptions

- A. The prohibitions of this article shall not apply if the ~~inquires~~ inquiries prohibited herein are specifically authorized by any other applicable law.
- B. The prohibitions of this article shall not apply to applicants for positions in the City Police Department or the Fire Department, or to any other employer hiring for "police officer" and "peace officer" positions, as defined by Criminal Procedure Law §1.20 or §2.10.

#### §63-16 Enforcement

- A. Any person aggrieved by a violation of this Article may commence a civil action or proceeding for injunctive relief, damages, or other appropriate relief in law or equity against any person or employer who violates this Article. In any such action or proceeding, ~~the court, may court may~~ allow the party commencing such action or proceeding, if such party prevails, costs and reasonable

attorney's fees as part of the relief granted.

- B. Any action brought for violation of this chapter must be commenced within one year after the alleged violation of this article.
- C. The remedies provided herein shall be separate and distinct from remedies provided in other laws, rules or regulations, and shall not be construed by any court to be a prerequisite to an action or proceeding commenced pursuant to such other laws, rules or regulations. The provisions of this ordinance shall not be construed to diminish the rights of an applicant under any other law.
- D. The Corporation Counsel may, in his or her discretion, bring an action to restrain or prevent any violation of this Article or any continuance of any such violation, in any court of competent jurisdiction and may further seek the imposition of the following penalties or a combination thereof:
  - (1) A penalty of five hundred dollars for the first violation of this Article;
  - (2) A penalty of one thousand dollars for each subsequent violation of this Article.

Section 2. The City shall make information about the provisions of this ordinance available to the public and to vendors and other persons who may be interested in it.

Section 3. The criminal history record checks in connection with employment required by Section 6B-2 of the City Charter shall be conducted in compliance with the provisions of this article.

Section 4. This ordinance shall take effect 180 days after it is adopted.

Strikeout indicates deleted text, new text is underlined

Passed unanimously.

The meeting was adjourned at 8:39 p.m.  
HAZEL L. WASHINGTON  
City Clerk

\* \* \* \* \*

SPECIAL MEETING  
JUNE 10, 2014  
12:00 P.M.

Present - President Scott, Councilmember Conklin, Haag, Miller, McFadden, Ortiz, Palumbo, Patterson, Spaul - 9.

Absent - None - 0.

The Council President requested the Council to rise for a Moment of Silence.

Pledge of Allegiance to the Flag of the United

States of America.

INTRODUCTION OF AND ACTION UPON LOCAL LAWS, ORDINANCES AND RESOLUTIONS

TO THE COUNCIL  
Ladies and Gentlemen:

Resolution No. 2014-26  
Re: Home Rule Resolution -  
Red Light Cameras

Transmitted herewith for your approval is a home rule resolution relating to legislation that is currently being considered by the New York State Legislature. The legislation, Senate Bill No. 7704 and Assembly Bill No. 9498, would authorize an extension of the City's Red Light Photographic Enforcement Program which was established in April 2009 through a local law as a demonstration program with an expiration date of December 1, 2014 (Res. No. 2009-7).

Red light cameras are installed at certain intersections to help enforce vehicle and traffic law. Intersection locations were selected based upon accident data and video surveys conducted by Redflex, Inc., the company currently managing the program for the City. To date, 32 intersections are monitored by cameras out of a maximum allowed 50 intersections. Under the requested extension of this program, the initial penalty for a traffic control violation would continue to not exceed \$50 and the Parking Violations Bureau would continue to adjudicate violations.

Early analyses by the Police Department indicate that there has been an overall reduction of right angle collisions and collisions involving a driver disregarding traffic control, both of which cause disproportionately high injury and/or fatality levels compared to other types of intersection collisions. Authorizing an extension to the City of Rochester's Red Light Photographic Enforcement Program will further promote safety and decrease motor vehicle accidents.

Respectfully submitted,  
Lovely A. Warren  
Mayor

Resolution No. 2014-26  
(Int. No. 206)

**Resolution for the purpose of a Home Rule Message regarding State legislation relative to owner liability for failure of operator to comply with traffic control indications**

Concurring in the request by the Mayor of the City of Rochester to the Senate and the Assembly of the State of New York pursuant to Article IX of the New York State Constitution to enact into law certain legislation in relation to a motor vehicle owner's liability for failure of the vehicle operator to comply with traffic control indications.

BE IT RESOLVED, by the City Council of the