

**CITY OF STOUGHTON
REFERENCE & BACKGROUND CHECKS POLICY**

I. PURPOSE

The City of Stoughton believes that hiring qualified individuals to fill positions contributes to the overall success of the City. Reference and background checks serve as an important part of the selection process. This type of information is collected as a means of promoting a safer and more productive work environment for current and future City employees. Background checks also help the City obtain additional applicant related information that helps determine the applicant's overall employability and future conduct/performance, ensuring the protection of the current employees, citizens, property and information of the City.

II. POLICY

The City may conduct a reference check on prospective employees. A reference check provides the City an opportunity to obtain information from other sources about the candidate's work history, determine to what extent the work experience of the candidate is related to City needs and to identify job related problem areas. If conducted, a thorough reference check should be completed prior to making any offer of employment. And, an employment offer will not be given unless the City obtains sufficient and satisfactory references.

The City has the option to follow any of these procedures for volunteers or applicants for volunteer positions with the City (for example volunteers serving vulnerable populations, handling financial transactions, or representing the City with the general public).

A. Employment Eligibility

The City is required by law to check identity and authorization for employment in the United States. The Bureau of Citizenship and Immigration Services (BCIS) provides the I-9 form for the City to utilize in documenting verification of employment eligibility. This must be verified by the examination of acceptable documents presented by the candidate for employment and completion of the I-9 form within three (3) business days of hire. The I-9 form will be completed by the City Clerk/Personnel Department.

B. Verification of Submitted Application Information

The City may obtain references to confirm and supplement information in the resume or application. Additionally, the City may seek confirmation of background data (such as dates of employment, salary, position and duties, education and professional licenses) and competency with respect to certain job-related skills (such as attendance, dependability, judgment and initiative).

C. Past Employer Checks

The City may contact a candidate's previous employer(s). The candidate's current employer(s) will only be contacted after agreement from the candidate. The City Clerk or Designee will contact the candidate's immediate supervisor(s). At the very least, the dates of employment and position(s) held shall be confirmed by the City. An attempt will be

made to follow the general format on the attached reference check form in requesting information from references.

D. Criminal Records

Applicants are required to respond to questions regarding convictions and pending criminal charges, if applicable, on the City's application form, and may be required to provide a separate listing detailing the convictions and pending charges. Pending criminal charges and conviction history information may not be used against candidates for employment, unless the conviction or pending criminal charge substantially relates to the circumstances of the particular job. In reviewing applicable convictions and pending charges, the City will consider the relationship between the conviction and the position, the nature of the conviction, the number of convictions, rehabilitation efforts and the applicant's fitness for the job.

E. National Criminal Records & Caregiver Background Checks for Applicants, Employees and Volunteers

Police Officer applicants, applicants or volunteers serving vulnerable populations, or who qualify as a "caregiver" under Wisconsin law (Chapter HFS 12 of the Wisconsin Administrative Code) may have a national criminal records check screening completed, including a caregiver check through the Wisconsin Department of Health and Family Services (as required). The purpose of this criminal history check will be to determine if a prospective or current employee or volunteer has been convicted for a crime that affects their ability to provide for the safety and well-being of children, the elderly or individuals with disabilities. Fingerprints may be obtained by going to the City's Police Department.

F. Driving Records

A review of driving records is required for all City positions that involve operation of a motor vehicle. Prior to an offer of employment or promotion to a position that requires driving, the City may review the records indicated below against a specific set of screening criteria to evaluate whether the record is acceptable, questionable or unacceptable. In addition, the screening may also take into account how much experience is needed, and what types of vehicles and/or equipment the candidate used in the past.

The City will perform the following driving record reviews:

1. Driver License verification: A candidate's license will be verified to ensure that it has not expired, and to confirm the listed operating classes (A, B, C, D, M), endorsements (T, P, N, H, X) and any restrictions (i.e. air brakes, corrective lenses, etc.)
2. Motor Vehicle Record (MVR) review: This details the accident and traffic history of a candidate over the previous three year period, and will be compared against the following MVR qualification guidelines to determine if the driving record is acceptable.

- a. Minimum Qualification Guidelines: The following are minimum driver qualification guidelines for consideration by the City:
 - i. Minimum of three (3) years of driving experience when a position requires a valid Driver's License at time of appointment and maintained during their incumbency.
 - ii. At least one (1) year of experience in the class of vehicle being operated.
 - iii. Meet the minimum posted licensing requirements for the position.

- b. Condition of Employment:
 - i. It is a condition of employment for City employees who operate motor vehicles or equipment to have an acceptable driving record. Based on the Motor Vehicle Record (MVR) review, a candidate will not be considered for employment if any of the following have occurred during the last three year period:
 - (A) Conviction of a felony related to the job position.
 - (B) Conviction for the sale, handling or use of drugs.
 - (C) Cancellation, declination or non-renewal of vehicle insurance.
 - (D) Conviction of a drug or alcohol offense while driving.
 - (E) Suspension or revocation of driver's license.

 - ii. The following violations (defined below) may impact whether a candidate obtains employment with the City:
 - (A) One or more Type A violations in the preceding three year period.
 - (B) Two or more Type B violations in the preceding three year period.
 - (C) Three or more Type C violations in the preceding three year period.
 - (D) One Type B violation and two Type C violations in the preceding three year period.

 - iii. Type A Violations: Includes, but not limited to: driving with a revoked or suspended license, DWI, reckless driving, fleeing or evading police, resisting arrest, hit and run, failure to report an accident, involuntary manslaughter or negligent homicide using a motor vehicle, operating a motor vehicle for the commission of a felony, excessive

- speeding (16 mph above the posted speed limit), and drag racing.
- iii. Type B Violations: All vehicle accidents, regardless of fault.
 - iv. Type C Violations: Includes all moving violations not classified as Type A or B: speeding, improper lane change, failure to yield, failure to obey a traffic signal or sign, and careless driving.
 - v. Type D Violations: Includes all non-moving violations: illegal parking and vehicle defects.
3. CDL Operators will be requested to provide a ten year employment history as part of the application process (per Federal DOT standard 49 CFR), and must comply with the City Drug and Alcohol Free Workplace Policy and consent to testing as defined by the DOT and City policy.

G. Background Investigations

A background investigation may be conducted for select City positions, due to the sensitive nature or type of work performed, if required by the position description. Generally, a background investigation attempts to gather information determined to be relevant to a candidate's performance of a job. For example, the Law Enforcement Standards Board describes the background investigation as a search of information relevant to the issue of whether the candidate possesses the following five (5) Performance-Related Behavioral Characteristics: dependability, honesty, judgment, social stability, and assertiveness. The background investigation goes beyond contacting individuals identified in a candidate's application as "references", and may include any one of the following: personal data, residence information, family relationships, personal references, education, military service, employment, financial history, civil/criminal litigation history, motor vehicle and driver's license history. The following City positions require background investigations as part of the selection process: Police Officer.

H. Credit Checks

City positions that have responsibility for initiating or affecting financial transactions may be required to submit to a credit check. These responsibilities may include, but are not limited to: collecting or handling cash or checks, writing checks or approving them, access to a direct money stream or being a fiduciary to the City. For any position where a consumer or credit check is required, the check will be conducted by a consumer reporting agency, and will be held in compliance with all federal and state statutes and collected consistent with the guidelines set forth by the Fair Credit Reporting Act (FCRA).

1. Prior to requesting the FCRA report, the City will notify the candidate or employee with a conspicuous written disclosure (in a document separate from the application) indicating a report will be requested and obtain their written authorization.

2. The City will provide certification to the consumer reporting agency that compliance with the FCRA and all other applicable equal employment opportunity laws and regulations will be adhered to.
3. Prior to taking an adverse action based on the report, a *pre-adverse action disclosure notice* will be provided to the candidate or employee that includes a copy of the individual's consumer report and a copy of the Federal Trade Commission's (FTC) document "A Summary of Your Rights Under the Fair Credit Reporting Act", which includes their ability to dispute inaccurate information. Once notified, the candidate or employee will be given the opportunity to correct or explain any information included in the report before the City takes the adverse action.
4. The City will provide written notification to the candidate or employee of the following:
 - a. the adverse action taken;
 - b. the name, address and telephone number of the consumer reporting agency that furnished the consumer report;
 - c. a statement that the consumer reporting agency that supplied the report did not make the decision to take the adverse action and cannot give specific reasons for it;
 - d. a notice of the individual's right to dispute the accuracy or completeness of any information the agency furnished, and their right to an additional free consumer report from the agency upon request within 60 days.

I. Record-keeping

Information obtained as part of the reference and background checks process will be used as part of the employment process and will be kept strictly confidential. The City Clerk/Personnel Director will store and maintain the information obtained as part of a reference check. Any City employee who has authority to conduct a reference check should forward all pertinent documentation to the City Clerk/Personnel Director. The City Clerk/Personnel Director and the Deputy Clerk/Confidential Secretary will only have access to this information, which will be kept separate from the employee's personnel file.

J. Legal Restrictions

Reference checks must be conducted in compliance with anti-discrimination laws. Therefore, inquiry about an applicant's race, color, sex (including pregnancy and sexual harassment), national origin, age, disability, religious observation or practice, ancestry, creed, handicap, marital status, arrest record, conviction record, sexual orientation, membership in the National Guard, state defense force on any reserve component of the military force of the United States or this state, use or nonuse of lawful products off the employer's premises during non-working hours, unfair honesty testing, genetic testing or any other protected class under federal, state or local law is expressly prohibited. The reference checking procedure should not question reference givers in a manner which elicits information specifying the candidate's membership in a protected class. The only

information that can be collected is that pertaining to the quality and quantity of work performed by the applicant, the applicant's education, and other issues that impact the workplace. The City will make inquiries regarding criminal records during the pre-employment state. However, in keeping with the Wisconsin Fair Employment Act, this information will not be used as a basis for denying employment, unless the circumstances of the conviction or pending criminal charge (arrest) substantially relate to the circumstances of the particular job applied for.

K. Providing References

Wisconsin law allows references to be given to prospective employers in good faith and protects employers from civil liability for reference provided in good faith. Per Wisconsin State Statute 985-487(2) *"An employer who, on the request of an employee or a prospective employer of the employee, provides a reference to that prospective employer is presumed to be acting in good faith and, unless lack of good faith is shown by clear and convincing evidence, is immune from all civil liability that may result from providing that reference. The presumption of good faith under this subsection may be rebutted only upon a showing by clear and convincing evidence that the employer knowingly provided false information in the reference, that the employer made the reference maliciously or that the employer made the reference in violation of s. 111.322."*

All inquiries regarding a current or former City employee must be referred to the City Clerk/Personnel Director, including telephone and written requests. Information provided over the telephone will be limited to verification of employment dates, position title and salary. Reference letters are prohibited from being issued on any current or former City employee, without prior permission from the City Clerk/Personnel Director.

No other data or information regarding any current or former City employee, or their employment with the City will be furnished unless the employee authorizes the City to furnish this information in writing that also releases the City from liability in connection with furnishing of this information or the City is required by law to furnish the information.

III. PROCEDURE: Guidelines for Conducting Reference Checks

Any City employee who has authority to conduct reference checks on perspective employees shall utilize the reference check from after obtaining written consent from the candidate on the reference check waiver form. Utilizing this waiver should assist in securing more candid information from the applicant's current and former employers. The following guidelines should be utilized to help prepare for the reference check.

- A. Prior to interviewing the candidate, review their application for omissions and inconsistencies (i.e. gaps in employment, missing contact information for current and/or previous supervisors). Any inconsistencies should be explained and/or missing information should be provided by the candidate, upon the City's request during the interview.
- B. Verify required professional licenses or certificates with the candidate.

- C. Contact the former employer(s) first. In each contact, request the name of others who worked with the candidate and know their performance. Contact may also be made with anyone who may have knowledge about the candidate, or who may direct the City to someone else.

- D. Complete the reference check form.

APPROVED BY THE COMMON COUNCIL: May 10, 2005

S:\Clerks Office\Policies Procedures and Emergency Plans\REF AND BACKGROUND.docx

S:\Clerks Office\Policies Procedures and Emergency Plans\REF AND BACKGROUND.pdf

LASERFICHE:\Policies Procedures and Emergency Plans\Ref and Background

CITY OF STOUGHTON
REFERENCE CHECK WAIVER

I authorize any person contacted to provide the City of Stoughton any and all information regarding my employment, education and other information concerning any of the subjects covered by the application which may include, but not be limited to, application of employment, performance evaluations, work records, excluding workers compensation, if any, wage rates, supervisors' comments, results of any and all non-medical tests, disciplinary reports or letters, and complaints or allegations regarding any misconduct. I agree to execute release authorization forms as required by the City of Stoughton to request employment records from my present and/or former employer(s). I release and hold harmless the City of Stoughton, their officers, agents and employees, and the person(s) providing the information from any liability related to the providing of this information.

I authorize the City of Stoughton, its officers, agents, and employees to conduct a background criminal check and a check with the Department of Transportation prior to making a decision regarding employment. I release and hold harmless the City of Stoughton, their officers, agents, and employees and the person(s) providing the information from any liability related to the performance or result of this check. I recognize that this information will be considered by the City of Stoughton only if it substantially relates to the position applied for.

Signature

Date

CITY OF STOUGHTON
REFERENCE CHECK FORM

1. Verify employment dates.
2. Verify position title and salary.
3. Verify work performed.
4. Who did the candidate work for prior to joining the reference's organization?
5. How does the candidate compare to the person who is currently performing the job? Or, what characteristics would you look for to replace them?
6. If the candidate was that good, why didn't you try to rehire them or induce them to stay?
7. When there was a particularly urgent assignment, what steps did they take to get that done on time?
8. No matter how good any individual is in the job, there always seems to be some areas that they are better at than others. What are those areas?
9. Have you seen their current resume? Let me read you the part that describes their position with your organization. (Stop at each significant point and ask the reference for a comment.)
10. All employees don't like all other employees. What kind of people did they have problems with?
11. How well equipped is this person to handle specific aspects of the job such as deadline pressures, attention to detail, and people skills?
12. What work and management style do they display?
13. Are you willing to rehire the applicant?

