

ORDINANCE NO. 942

**AN ORDINANCE AMENDING THE STAYTON MUNICIPAL CODE TITLE 2  
CHAPTER 2.52 RELATING TO CITY EMPLOYEE BACKGROUND CHECKS.**

Whereas, ORS 181.555, and the related Oregon Administrative Rules establish procedures for access to criminal conviction record information possessed by the Oregon State Police Department through the Law Enforcement Data System (LEDS);

Whereas, ORS 181.555(1) authorizes access to criminal offender information by Criminal Justice Agencies and ORS 181.555(2) authorizes access to criminal offender information by other state and local agencies;

Whereas, the City of Stayton Police Department is a Criminal Justice Agency under state law with access, by agreement with the Oregon State Police, to criminal offender information maintained in LEDS;

Whereas, OAR 257-010-0025(a) permits the City of Stayton Police Department as a Criminal Justice Agency access to Oregon State Police criminal offender information where such information is required to implement a local ordinance;

Whereas, the City Council desires to authorize the use of the criminal offender information available through LEDS to facilitate employee and volunteer background checks to preserve the public's confidence in the integrity of the City's employees and volunteers and to improve efficiency in obtaining and assessing criminal conviction records for applicants to positions of employment or voluntary public service that require certain services;

Whereas the numbering system of Title 2 Chapter 2.52 needed to be updated to reflect the current numbering of the Stayton Municipal Code;

Whereas the City Officers needed to be updated to reflect the current charter; and

Whereas the City discrimination statement needed to be updated to reflect current laws.

NOW THEREFORE, the City of Stayton ordains:

SECTION 1. Stayton Municipal Code Title 2 "Administration and Personnel," Chapter 2.52 "Personnel" is hereby amended to read:

## CHAPTER 2.52

### PERSONNEL

#### SECTIONS

2.52.010	City Officers Designated
2.52.020	City Employees
2.52.030	Appointment of Additional Officers
2.52.040	Fidelity Bonds
2.52.050	Qualifications
2.52.060	Personnel Manual
2.52.070	Administration Authority
2.52.080	Discrimination Prohibited
2.52.090	Contracts for Professional Services
2.52.100	Authority to Conduct Background Checks
2.52.110	Severability

#### 2.52.010 CITY OFFICERS DESIGNATED

For the purpose of this Chapter, council members, the mayor, the municipal judge, the city administrator and the city attorney are deemed to be the officers of the City. (Ord. 658, section 1[part], 1989; prior code section 2.260)

#### 2.52.020 CITY EMPLOYEES

For the limited purpose of this Chapter, the police chief and the holder of any other position not set out in section 2.52.010 are each deemed to be an employee of the City, and not an officer thereof. (Ord. 658, section 1[part], 1989; prior code section 2.262)

#### 2.52.030 APPOINTMENT OF ADDITIONAL OFFICERS

Pursuant to the City Charter, additional officers of the City may be appointed as the council deems necessary. Each of these other officers shall be appointed and may be removed by the mayor with the consent of the majority of the council. The council may combine any two or more appointive city offices. The council may designate any appointive officer to supervise any other appointive officers, except the municipal judge in the exercise of the judicial functions. (Ord. 658, section 1[part], 1989; prior code section 2.263)

#### 2.52.040 FIDELITY BONDS

1. All city employees and officers shall be covered by an insurance policy which provides at least \$100,000 fidelity bond for each employee or officer engaged in the good faith performance of the job.

2. The bonds furnished in accordance with subsection 1. above shall be furnished at the City's sole expense. (Ord. 658, section 1 [part], 1989: prior code section 2.264)

2.52.050 QUALIFICATIONS

Employees of the city are not required to meet the qualifications of officers of the city and shall meet only those qualifications as the council may establish. (Ord. 658, section 1 [part], 1989: prior code section 2.265)

2.52.060 PERSONNEL MANUAL

1. A personnel manual outlining personnel rules, policies, and procedures for the city shall be adopted by separate resolution. The council may, from time to time, review the manual and develop new or modified policies and programs. A copy of the personnel manual shall be kept in the office of the city administrator. (Ord. 658, section 1 [part], 1989: prior code section 2.268)

2. The council by resolution will adopt rules governing compensation, recruitment, selection, promotion, transfer, demotion, suspension, layoff, and dismissal of city employees based on merit and fitness. (Ord. 917, January 2010)

2.52.070 ADMINISTRATION AUTHORITY

Subject to council review, the personnel policies and programs established by this Chapter shall be administered by the city administrator who will be responsible for carrying out the provisions of this chapter. (Ord. 568, section 1 [part], 1989: prior code section 2.270)

2.52.080 DISCRIMINATION PROHIBITED

~~No city employee or person seeking such employment shall be employed, promoted, demoted, dismissed, denied employment, or in any way favored or discriminated against because of political opinions or affiliations or because of race, sex, or religious belief. (Ord. 658, section 1 [part], 1989: prior code section 2.82)~~

The City will ensure that all persons are entitled to equal employment opportunities and benefits regardless of age, race, religion, color, sex, marital status, political affiliations, national origin, or membership in any other classification protected under federal or Oregon law. Discrimination on the basis of mental or physical disability is also prohibited except where a particular provision requires a bona fide occupational qualification. The City will take affirmative action to ensure that the City work force is representative of the work force in the area. The City will comply with federal and state statutes on equal employment opportunities.

2.52.090

## CONTRACTS FOR PROFESSIONAL SERVICES

The council may contract or direct the city administrator to contract with qualified personnel for professional services. (Ord. 658, section 1 [part], 1989: prior code section 2.284)

2.52.100

## AUTHORITY TO CONDUCT BACKGROUND CHECKS

1. For the purpose of this Chapter, the prospective employee, volunteers, community service workers, city contractors and applicants for City licenses will all be referred to as “applicant.”
2. An offer of employment to all potential applicants may be conditioned on the prior written consent to a check of the applicant’s background.
3. The background check will involve contacting and accessing sources of information to request, read, review, and photocopy the information the City deems necessary to lawfully investigate the applicant’s ability to meet the requirements of the position. This may include, but is not limited to; previous employers, education, residential requirements, achievements, performance, attendance, disciplinary issues, employment history, driving record, professional licensing, criminal conviction information, and sex offender information.
4. A criminal conviction history may be checked through the records maintained in but not limited to the Oregon State Police Law Enforcement Data System (OSP LEDS), other states’ criminal conviction data systems, state sex offender registration data bases, national sex offender registries, and parole and probation offices.
5. Applicants will be asked to sign a written consent form authorizing the City to conduct a background check. Through its Police Department, the City may make a criminal offender record check through the OSP; and will provide written notice from the City that a criminal offender record check may be made through the OSP LEDS.
6. The consent form shall include: Notice of the manner in which the individual may be informed of the procedures adopted under Oregon Revised Statute (ORS) for challenging inaccurate criminal conviction history information.
7. The City’s Human Resource Department will maintain the completed criminal conviction history consent form and will request the check.
8. The City of Stayton Police Department will conduct the check on the prospective applicant. The Stayton Police Department will report to the City’s Human Resource Department that the record indicates “no criminal conviction record” or “criminal

conviction record.”

9. If the applicant’s record is reported as “criminal conviction record,” the City’s Human Resource Department will, in accordance with Oregon Administrative Rules (OAR), request a written criminal history report from the Oregon State Police Identification Services Section. The City’s Human Resource Department will make the written conviction record available to the selecting Department Head for consideration and will advise the Department Head in making the hiring decision.
10. The written criminal conviction history record on persons not hired or appointed will be retained in accordance with the OAR record retention requirements and thereafter will be destroyed by shredding.
11. An applicant who is disqualified from employment or appointment with the City, based on the applicant’s criminal conviction history shall be informed of the basis of the disqualification and may appeal the disqualification only on the grounds that the information is incorrect. Any such appeal must be in writing, must state with particularity the grounds for the appeal and must be received by the City no later than seven (7) calendar days from the date of notice to the applicant of disqualification to be considered.
12. The criminal conviction history record of applicants with a criminal conviction history, hired or appointed will become a part of the confidential personnel file of the applicant. Access to confidential personnel files is limited to authorized persons who have an official need to access such files as sanctioned by law or regulation. Presence of a criminal conviction history will not cause an automatic rejection of the application, but any convictions will be considered. Each application will be evaluated on a case-by-case basis, taking into account the applicant’s qualifications, the requirements of the particular job or volunteer post applied for and the results of the criminal conviction history check. Factors such as the age of the offender at the time of the offense, length of time since the conviction, the type of offense and subsequent rehabilitation, the public sensitivity of the position under consideration shall be taken into account in evaluating a criminal conviction history report.
13. Hiring an applicant with a criminal conviction history will require approval of the selecting Department Head and the approval of the City Administrator after full disclosure and consideration of the criminal history of the applicant. Nothing in this Chapter shall prevent the City of Stayton from denying an applicant’s application on a basis other than criminal conviction history, or lack of such history, of the applicant.

**2.52.110 SEVERABILITY**

Invalidity of a section or a part of a section of this Chapter shall not affect the validity of the remaining section or parts of sections.

SECTION 2. Upon enactment by the Stayton City Council and the Mayor's signature, the Ordinance shall become effective 30 days after enactment.

ENACTED BY THE STAYTON CITY COUNCIL ON FEBRUARY 6, 2012.

Signed: 2-6, 2012

CITY OF STAYTON

By: 

A. Scott Vigil, Mayor

Signed: 2-6, 2012

ATTEST: 

Don Eubank, City Administrator

APPROVED AS TO FORM:



David A. Rhoten, City Attorney