City of Lincolnton Personnel Policy
Proposed Effective Date: October 2, 2025

Addition: Article II Recruitment and Selection
Section 11-Background Checks

The City of Lincolnton believes employing and retaining a well-qualified, diverse workforce is essential to the overall success of the organization. Criminal background checks are an important tool in determining the suitability of an individual for either initial or continued employment with the City.

Purpose

Information about an individual's past criminal conduct is collected to preserve public trust, promote a safe work environment for employees and members of the public, determine their suitability for employment, and promote the protection of City property. The City seeks to promote a fair, consistent, confidential, and non-discriminatory method of obtaining and using criminal information for employment decisions. This section applies to all applicants and employees of the City of Lincolnton.

Definitions

- Background Check – Process of acquiring records related to an individual's past criminal conduct.
- Background Check Release Form – A form completed by an applicant that authorizes a background check prior to employment.
- Fair Credit Reporting Act (FCRA) – Federal law that regulates the collection, dissemination and use of consumer credit information, including criminal background reports.
- Legal Actions/Proceedings – Any legal actions including, but not limited to, arrests, convictions, guilty pleas, no contest pleas, restraining orders, warrants, and criminal charges.

Organizational Rules

- All applicants for employment are subject to a criminal background check.

- The City shall not treat criminal background check information differently for individuals based on their race, color, gender, religion, age, political affiliation, national origin, sexual orientation, physical or mental disability, genetic information or any other non-job-related factor.

- An arrest, in and of itself, does not establish that criminal conduct has occurred. Accordingly, the fact that an individual was arrested should never be the sole basis of an adverse employment action, except as outlined below. The City may take adverse employment action based on information showing the individual actually committed the conduct underlying the

arrest. A conviction, guilty plea or no contest plea shall serve as sufficient evidence that the individual engaged in the alleged criminal conduct.

- The City recognizes that the use of criminal background check information may disproportionately impact some individuals based on their membership in a protected class. Accordingly, the City will take steps to ensure that any use of criminal background check information will be job related and consistent with business necessity and any applicable laws.

Procedures

Pre-Employment Background Checks

The Human Resources Department will arrange for the criminal background check once a conditional offer of employment has been extended to the applicant. This offer could be verbal, or in writing. All applicants will complete a background check release form. Any applicant refusing to authorize the criminal background check once the applicant has been given a conditional offer of employment will have their application rejected.

In compliance with G.S. 160A-164.2(b), if the position being filled requires an applicant for employment to work with children in any capacity, the City must require the applicant, if offered the position, to be subject to a criminal history record check conducted by the SBI. These checks must be performed in accordance with G.S. 143B-1209.26, which authorizes the SBI to provide a fingerprint-based state and national criminal record check to cities and counties.

Departments such as the Police Department and the Fire Department may have pre-employment procedures for criminal background checks that are more stringent than stated in this policy and may include conducting a criminal background check prior to the extending of a conditional offer of employment. These departments will follow departmental procedures and standards as outlined in relevant General Statue, including the Fire Department's requirement to follow G.S. 143B-1209.24 of the North Carolina General Statutes, and the Police Department's policy to follow the North Carolina Criminal Justice Training and Standards Division's template for criminal background checks.

The City shall ensure that criminal background checks are conducted, and notices are provided in accordance with the requirements of the FCRA.

If the criminal background check does not reveal any prior criminal activity, the conditional offer may proceed with finalization of the offer pending the outcome of other pre-employment conditions. However, if the criminal background check reveals a conviction, guilty or no contest plea, the hiring manager in concert with the Human Resource Director shall determine the degree to which the criminal conduct is related to the position for which the applicant is being considered.

When determining whether to reject an applicant because of prior criminal activity, the following shall be considered:

- Nature and gravity of the criminal activity
- Time that has passed since the criminal activity
- Duties that the applicant will perform
- Applicant's opinion on the accuracy of the background check
- Facts surrounding the criminal activity
- Number of criminal offenses
- Age of the applicant at the time of the criminal activity
- Applicant's employment history before and after the criminal activity
- Applicant's rehabilitation efforts
- Applicant's employment or character references; and
- Applicant's participation in a bonding program.

If the decision is to reject the applicant because of their prior criminal activity, the City shall comply with the requirements of the FCRA.

Pending charges, or prior convictions, that are potentially significant require consultation with the City Manager prior to extending an employment offer.

Procedures for Active Employees

All active employees who are subject to legal actions/proceedings shall provide the following information to their Department Head within two (2) business days of the initial incident:

- Name of the jurisdiction involved
- Location of the alleged activity
- Specific legal action
- Nature of the alleged activity
- Date and time of the legal action; and
- Dates of any upcoming court appearances

The Department Head must meet with Human Resources to determine the relevance, if any, to the employee's legal action(s). In reaching this decision they shall consider the same factors outlined in the pre-employment section above. Employees' legal actions may subject them to corrective action up to and including termination from City employment. Likewise, employees failing to notify their Supervisor of legal actions as required by the policy may be subject to correction action up to and including termination from employment.

(The insertion of this new section as Section 11 will require the current sections of Article II Sections 11-16 to be renumbered to 12-17.