



## **POLICY AND PROCEDURE**

**SUBJECT: "BAN THE BOX" INITIATIVE**

**DATE:**        **October \_\_, 2016**

### **POLICY STATEMENT**

In an effort to encourage and promote the employment of qualified and rehabilitated individuals with criminal records in employment with the City of Riviera Beach, subject to certain exceptions, the City of Riviera Beach will not inquire into conviction history until following the extension of a conditional offer of employment. After extending any such conditional offer of employment, the City of Riviera Beach Human Resources Department may conduct a criminal background check in accordance with applicable law. To the extent that such background check yields a criminal conviction, the Human Resources Department shall conduct an individualized inquiry with respect to whether to proceed with hiring the individual into the position.

### **PURPOSE OF THE POLICY**

To encourage and promote the employment of qualified and rehabilitated individuals with criminal records.

### **DEFINITIONS**

"Applicant" means any person considered or who requests to be considered for employment with the City of Riviera Beach by the City of Riviera Beach.

"Conditional offer" means an offer of employment that is conditional solely on:

The results of the City of Riviera Beach subsequently inquiring into or gathering information about the applicant's criminal record; or

Some other employment-related contingency expressly communicated to the applicant at the time of the offer, such as, for example, passing a licensure exam.

"Conviction" means 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.

"The City" means the City of Riviera Beach, Florida.

"Employment" means any occupation, vocation, job, or work for pay, including temporary, part-time, or seasonal work, and work through the services of a temporary or other employment agency or any form of vocational or educational training with or without pay for the City of Riviera Beach.

"The Human Resources Department" means the City of Riviera Beach Human Resources Department.



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"Inquiry" means any direct or indirect conduct intended to gather criminal history information from or about an applicant using any method, including application forms, the interview process, and/or criminal history checks.

"Interview process" means any direct contact by the City of Riviera Beach with the applicant, whether in person, by telephone, via email, or other form of communication, to discuss the employment being sought or the applicant's qualifications.

### **AUTHORITY**

The Human Resources Director is authorized to review and make final decisions as to whether an applicant will or will not be hired based on information contained in his or her background report, including information related to conviction record. Such determination shall be made in a manner consistent with this Policy and Procedure, as well as applicable law.

### **PROCEDURES**

Unless otherwise provided below, the Human Resources Department may not make an inquiry about or require an applicant to disclose or reveal a criminal conviction during the interview process, until *after* making a conditional offer of employment. In this regard, the City of Riviera Beach employment application shall not inquire as to conviction history.

Notwithstanding the foregoing, the prohibitions on inquiring about, requiring the disclosure of, or the revealing of criminal convictions until after making a conditional offer of employment *shall not* apply:

1. Where a federal, state, or local law or regulation requires the consideration of an applicant's criminal history for the purposes of employment;
2. To any department within the City that provides programs, services, or direct care to minors or vulnerable adults.

Following the City's extension of a conditional offer of employment to an applicant, the Human Resources Department may only withdraw the conditional offer for a legitimate business reason. The Human Resources Department's determination of a legitimate business reason must be reasonable in light of the following factors:

1. The specific duties and responsibilities necessarily related to the employment sought by the applicant;
2. The bearing, if any, of the criminal offense for which the applicant was previously convicted will have on his or her fitness or ability to perform one or more such duties or responsibilities;
3. The time which has elapsed since the occurrence of the criminal offense;



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4. The age of the applicant at the time of the occurrence of the criminal offense;
5. The frequency and seriousness of the criminal offense; and
6. Any information produced by the applicant, or produced on his or her behalf, in regard to his or her rehabilitation and good conduct since the occurrence of the criminal offense. An applicant shall be provided a reasonable opportunity to provide this information prior to any rescission of a conditional offer of employment.

While the Human Resources Department's determination of a legitimate business reason must be reasonable in light of the foregoing circumstances, such determination shall be made in the sole discretion and judgment of the Human Resources Director.

If an applicant believes that a conditional offer was rescinded on the basis of a criminal conviction and was not based on a legitimate business reason, the applicant may request a meeting with the Human Resources Director within seven (7) calendar days after receipt of the decision. Ordinarily, following receipt of such request, the Human Resources Director shall delay filling the position for which the applicant applied until such meeting can take place. During such meeting, the applicant may present additional appropriate evidence why he or she is qualified for employment, notwithstanding the conviction. The Human Resources Director's determination on the issue shall be final.

To the extent that the Human Resources Department becomes aware of arrest information during the application phase or following the extension of a conditional offer of employment, such information shall be treated and assessed in a manner consistent with U.S. Equal Employment Opportunity Commission guidance.

In connection with this policy, the Human Resources Department shall fully comply with the requirements of the Fair Credit Reporting Act. In this regard, all applicants for City employment will be subject to a background check following the extension of a conditional offer of employment.

Additionally, in order to ensure compliance with this policy, all conditional offers of employment will be made through the Human Resources Department.

The Human Resources Department will prepare an annual report to the City Manager, setting forth the number of conditional offers of employment made to candidates with conviction records, the number of rescissions associated with such offers, the number of appeals of such rescission, and the final determination as to the employment decision.

**Departmental Sponsor:** Human Resources

**Policy Review Date:** September 2019

**References:** U.S. Equal Employment Opportunity Commission Guidance  
Fair Credit Reporting Act



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**Departments Affected:**

All Departments, unless exempted as stated within Policy and Procedure

**Approved By:**

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