

CITY OF MANITOWOC
SEASONAL EMPLOYMENT POLICY

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Special Instructions: All Supervisors shall read and acknowledge receipt.		
Distribution: All Supervisors		

I. PURPOSE

The purpose of this policy is to provide a framework for the seasonal employment process including: recruitment, selection, training, and performance evaluation. This seasonal employment process is different from that of the City's regular employment processes because the department supervisors are empowered to make hiring decisions for their seasonal needs. The City of Manitowoc establishes clear and consistent guidelines to assist City supervisors and to ensure equal and unbiased treatment of all applicants and employees.

II. POLICY

The City of Manitowoc will recruit and select the best qualified persons for positions within the City. The Human Resources Department is responsible for developing and facilitating an active seasonal recruitment and selection program designed to meet the current and anticipated City departments' seasonal employment needs. The procedure will be consistent with Affirmative Action goals and will comply with all Equal Employment Opportunity guidelines.

III. PROCEDURES

1. **Recruitment:** When it is determined to be in the best interest of the City of Manitowoc, seasonal employees may be hired as budgeted. Such employees shall not be eligible to receive City of Manitowoc fringe benefits unless specified. ~~specifically provided for elsewhere.~~ The department shall establish position descriptions for each seasonal position within their department. The position descriptions must be approved by the Human Resources Department, followed by the Personnel Committee. Pay rates for Recreation positions will be established

by the Parks and Recreation and Personnel Committees. All other seasonal position pay rates will be established by the Personnel Committee.

2. Hours: No seasonal employee shall exceed 1199 hours if not employed by a WRS employer prior to July 1, 2011 (599 hours of employment if employed by a WRS employer on or after July 1, 2011) in any 12-month period unless previously authorized by the Personnel Committee. The affected department shall monitor the hours worked by each seasonal employee so as not to exceed the applicable maximum. In the event a seasonal employee exceeds the applicable maximum, the employee shall be enrolled in the Wisconsin Retirement System (WRS) and shall be responsible for payment of the employee portion of the WRS pension payment. Employees shall not work more than 40 hours per week except in bonafide Fair Labor Standards Act qualified recreational positions (*See Appendix A*). If an employee's position is listed on *Appendix A*, all hours worked over 40 hours per week shall be paid at straight time. If an employee is in a position not listed in *Appendix A* and works more than 40 hours in a week, he or she must have prior department head approval and shall be paid at a rate of one and one-half time for each hour worked in excess of 40 for that week.

3. Advertising and Publicity: The Human Resources Department shall post the openings for online~~solicit~~ applications during the months of January and February. ~~Solicitation-Advertisement~~ shall include publication on the City's website and other methods of publication as deemed appropriate by the Human Resources Director to ensure that a diverse population has access to the postings. During all other times of the year, the Parks and Recreation Department shall post positions on the City's website which their department is seeking to fill. These postings must be reviewed by the Human Resources Department prior to publication on the City's website. Solicitation of applications by "word of mouth" only is not appropriate as a means of advertising to a diverse population.

4. Application Forms: All City of Manitowoc seasonal applications for employment must be completed online through the City website. ~~forms provided by the City (See Appendix B).~~ Resumes will be accepted only as a supplement to the application, not in lieu of an application. Returning seasonal employees must re-apply through the City website. ~~fill out an Employee Reactivation Form (See Appendix I).~~ All completed applications and ~~Employee Reactivation Forms~~ must be submitted to the Human Resources Department.

5. ~~New Applicant Tracking~~: When a completed application is received by the Human Resources Department, the application will be tracked. Tracking is completed through the City's application management system NeoGov. Hiring supervisors will have access to view applications and communicate with Human Resources about candidates they interview and ones they will not proceed with in the process. ~~A spreadsheet will be used for tracking purposes. The spreadsheet shall include the name of the applicant, position or department of interest, and department(s) to which a copy of the application is forwarded, along with the date it was forwarded.~~

- 6.5. Candidate Selection: The hiring supervisor will screen the applications based on the job requirements outlined in the position description. After selections are made, candidates will be scheduled for an interview. All candidates for similar positions will be asked the same questions. The questions to be asked must be submitted to the Human Resources Department in advance for review and approval. "Fair Hiring & Avoiding Loaded Interview Questions" must be reviewed and adhered to by hiring supervisors *(See Appendix BC)*. All applicants not chosen from the interview process will be notified ~~by letter (See Appendix D)~~.

- 7.6. Criminal Background Checks & Drug Screen: New employees require a background check and pre-employment drug screen. Returning seasonal employees will require a background check if they are working with children under the age of 18, as well as a pre-employment drug screen. Pre-employment drug screens must be completed within 14 days of receiving the written

employment offer at the clinic of choice by the City. The hiring supervisor will submit names for criminal background checks to the Human Resources Department. Checks will be conducted through the Wisconsin Criminal Information Bureau, Wisconsin Circuit Court Access and the Wisconsin Sex Offender Registry. Out of state applicant's background must be checked in the state in which they reside as well. The Human Resources Department will determine whether or not any adverse information is relevant to the type of position the applicant will occupy. No applicant will be hired or denied employment until this process is complete. Documentation of the Criminal Background Checks will be held in the Human Resources Department.

8-7. Verification of Certification/License: The department supervisor is responsible for verification of any necessary certifications required for the position which is being filled. The department supervisor is also responsible for verification of a valid driver's license, if required for the position. Documentation of the verification must be forwarded to Human Resources.

9-8. Pay Policy: All seasonal employees shall be paid in accordance with *Appendix EC*. Any position not listed on *Appendix E-C* or wage rate which differs from *Appendix E-C* must be approved by the Personnel Committee.

10-9. Offer of Employment: The offer of seasonal employment will be made in writing. The written offer will include the position title, position description, pay rate, hours of work, start date, location address, required apparel and any contingencies which may exist (e.g. verification of lifeguard certification). For new hires it will also include a paragraph which states "*Enclosed is a list of documents which establish employment eligibility. On your first day of employment, please bring with you one document from list A or one each from list B and C. An example of acceptable documentation would be a driver's license and social security card.*" (See *Appendix FD*). The final paragraph of all letters will include the definition of at-will employment as defined in section IV.3. In addition it will include the

statement "*This is not a contract for employment.*" A copy of the offer letter must be forwarded to Human Resources.

~~11~~.10. Orientation and Training: The department supervisor is responsible for scheduling the orientation of each seasonal employee. The Human Resources Department or Payroll Administrator will be at the orientation to assist with completion of all payroll forms. The supervisor is responsible for all required training for the position as detailed (*See Appendix GE*). The training documentation must be forwarded to Human Resources.

~~12~~.11. FICA Alternative Retirement Program: The City of Manitowoc utilizes a FICA Alternative Retirement Program for all seasonal and temporary employees. This is not a voluntary program. All temporary and seasonal employees must submit an enrollment form. Complete the "Participant Enrollment Form" as well as the "Statement Concerning Your Employment in a Job Not Covered by Social Security" and return it to your supervisor or the Human Resources office. You must indicate your beneficiary designation on the enrollment form. (*See Appendix FJ*).

~~13~~.12. Minors: No minors will be employed in seasonal positions except the following at age 17: lifeguard, swim instructor and except at age 16: youth program instructor, youth umpire, clerical or Concessionaire/Attendant. When a minor is hired, a work permit will be required and paid for by the department hiring the minor. The work permit will be maintained at the department. The department supervisor is responsible for compliance with all child labor laws. Documentation of compliance must be forwarded to Human Resources.

~~14~~.13. Nepotism: Chapter 20.03 of the City of Manitowoc Municipal Code must be followed when hiring relatives of elected officials, department heads or other supervisory personnel.

~~15.14.~~ Safety and Protective Gear: The City will provide general protective gear (e.g. safety vest, goggles, hearing protection) when required for the position. The Employee will provide protective gear which is personal in nature (e.g. steel tip shoes, rain gear and long pants) when required for the position.

~~16.15.~~ Termination of Employment: Upon termination of employment for the seasonal employee, the department supervisor shall complete an Employee Termination Report which includes the performance evaluation (*See Appendix HG*). Documentation of compliance must be forwarded to both the Payroll and Human Resources Department.

IV. DEFINITIONS

1. Seasonal Employment: Certain times of the year necessitate the hiring of temporary, non-benefited positions to assist with increased workloads or to fill recreational program activity positions.
2. Seasonal Employee: Temporary, non-benefited employees hired to perform seasonal work. Employment terminates at the end of the season. Employment is strictly “at-will”.
3. At-Will: “At-will” employees have the right to terminate employment at any time, with or without notice, and for any or no reason at all. Likewise, the City has the right to terminate employment at any time, with or without notice, and for any or no reason at all.

APPENDIX A

Fair Labor Standard Act Qualified Seasonal Recreation Positions

- Aquatic Center Manager
- Assistant Aquatic Center Manager
- Concessionaire/Attendant Coordinator
- Lifeguard
- Water Safety Instructor
- Concessionaire/Attendant

Wisconsin's Fair Employment Laws
 #1 in a Series
**Fair Hiring
 And Avoiding Discriminatory Interview Questions**

One of the purposes of the fair employment law is to encourage employers to evaluate job applicants on the basis of their qualifications, rather than on their membership in a particular class to which they may belong. Under section 111.322(2) of the Wisconsin Statutes it is unlawful:

To print or circulate any statement, advertisement, or publication, or to use any form of application for employment, or to make any inquiry in connection with prospective employment, which implies or expresses any limitation or discrimination based upon a person's race, color, creed, ancestry, national origin, age, sex, disability, arrest or conviction record, marital status, sexual orientation, military service, or use or non-use of lawful products away from work.

For example, an employer might ask an applicant, "What nationality are you?" This question implies that an applicant's national origin will be a factor in the employment decision. Even if the employer does not intend to discriminate against the applicant, asking the question may create problems.

This pamphlet deals primarily with avoiding discriminatory interview questions. Employers should also review all of their recruitment, hiring, and promotion processes to be sure that they are fair.

Before Hiring, You May Want to Consider the Following:

- Review the essential functions of the job. What skills will an applicant need in order to perform the job successfully?
- What kinds of interview questions will help determine if an applicant can perform the functions of the job? If you intend to pre-screen applicants, develop objective and relevant benchmarks, and apply them uniformly.
- Review how you advertise and recruit for positions. Do you reach all areas of the community, or are some groups excluded? Note that word-of-mouth or employee referral methods of recruitment may be unlawful if the current workforce is not representative of the area population.
- If using an application form, carefully review it to ensure that it does not ask for discriminatory, irrelevant, or non-essential information.
- Consider if barriers exist for applicants using wheelchairs, those who have hearing or vision impairments, learning disabilities, or other disabilities. If barriers do exist, consider what accommodation an applicant may need. (See pamphlet #4 "Persons with Disabilities on the Job" for resources regarding reasonable accommodations).
- When advertising, be careful about the language you use. Ads which imply or express an unlawful preference or limitation such as, "young, energetic" (which can imply age discrimination) should be avoided.

If You Need Assistance:

Job Service has trained job counselors who can assist in matching employers and qualified applicants. To locate the Job Center in your area, call 1-888-258-9966, or go to www.wisconsinjobcenter.org.

QUESTIONS TO AVOID DURING THE HIRING PROCESS

The key to understanding what inquiries might be unlawful is to ask only questions that will provide information about the person's ability to do the job, with or without a reasonable accommodation. Keep in mind that if it is unlawful to ask the applicant a question directly, it is also prohibited to ask the same question as part of the pre-offer reference checks.

1. WHAT IS YOUR AGE OR DATE OF BIRTH?

Avoid age-based inquiries. Both state and federal laws prohibit discrimination against persons age 40 and older. An age inquiry may be made to ensure that a person is "old enough" to work for the job, or if the job is among the few where age discrimination is permitted (such as driving a school bus or some types of physically dangerous or hazardous work).

2. HAVE YOU EVER BEEN ARRESTED OR CONVICTED?

Wisconsin law prohibits inquiries about past **arrest records** but permits consideration of a current arrest. If an applicant is currently under arrest for an offense that is substantially related to the job, an employer may either suspend judgment until the case is resolved, advise the applicant to reapply when the charge is resolved, or refuse to employ the applicant. A current employee who is arrested may be suspended (but not discharged) if the charge is substantially related to the job.

With some exceptions, an employer may not refuse to employ a person or discharge a person with a **conviction record** unless the circumstances of the conviction substantially relate to the circumstances of the job. Therefore, if an inquiry about convictions is made, the employer should add a clarifier, such as: "A conviction will not necessarily disqualify you from employment. It will be considered only as it may relate to the job you are seeking." Anyone who evaluates conviction record information for the employer should be knowledgeable about how such data may be used.

3. ARE YOU AVAILABLE FOR WORK ON SATURDAY AND SUNDAY?

This question may discourage an applicant whose religion prohibits work on their Sabbath, which might be Saturday or Sunday. If a question about weekend work is asked, the employer should indicate that a reasonable effort is made to accommodate religious beliefs or practices. An employer is not required to make an accommodation if doing so would create an undue hardship for the business.

4. DO YOU HAVE CHILDREN? WHAT ARE THEIR AGES? WHAT CHILDCARE ARRANGEMENTS DO YOU HAVE? ARE YOU PREGNANT OR PLANNING TO HAVE CHILDREN?

Typically, these questions are asked only of women, which make these inquiries unlawful. However, even if such inquiries are made of both men and women, the questions may still be suspect. Such information has been used to discriminate against women because of society's presumption that they are the primary caregivers. If the employer's concern is regular work attendance, a better question would be, "Is there anything that would interfere with regular attendance at work?"

5. WHAT COUNTRY ARE YOU FROM? ARE YOU AN AMERICAN CITIZEN?

Inquiries about a person's citizenship or country of birth are unlawful and imply discrimination on the basis of national origin. A person who has lawfully immigrated to this country may not be discriminated against on the basis of citizenship. The Immigration Reform and Control Act of 1986 requires employers to verify the legal status of all new hires. Employers should not ask applicants to state their national origin, but should ask if they have legal permission to work in the United States. They should then explain that verification of that permission must be submitted after the decision to hire has been made. To satisfy verification requirements, employers should ask **all** new hires for documents establishing both identity and work authorization. For more details on these regulations, contact the U.S. Citizen and Immigration Services (USCIS) at 1-800-375-5283.

6. DO YOU HAVE A GARNISHMENT RECORD? DO YOU HAVE CREDIT PROBLEMS? ARE YOU A HOMEOWNER?

Answers to these inquiries are almost always irrelevant to job performance. Because census data indicates that minorities, on average, are poorer than whites, consideration of these factors may have a disparate impact on minorities. Therefore, requests of this nature may be unlawful unless clearly required by business necessity.

7. DO YOU HAVE A DISABILITY? WHAT IS YOUR HEALTH HISTORY?

Inquiries about a person's disability, health, or worker's compensation history before a job offer is made are unlawful if they imply or express a limitation based on disability. Under the federal Americans with Disabilities Act, **any** inquiry at the pre-employment stage which would likely require an applicant to disclose a disability is unlawful. Employers must avoid such inquiries or medical examinations before making a bona fide job offer.

However, an employer may inquire about an applicant's ability to perform certain job functions and (within certain limits) may conduct tests of all applicants to determine if they can perform job functions, with or without an accommodation.

8. DO YOU HAVE FRIENDS OR RELATIVES WORKING FOR US?

This question is not relevant to an applicant's competence and should be avoided. Since the question implies a preference for friends or relatives, it may be unlawful if the composition of the present workforce is such that this preference reduces or eliminates an employment opportunity for minorities, women or individuals in other protected classes.

9. ARE YOU PROFICIENT IN ENGLISH?

Some level of proficiency in English may be necessary for many jobs, but fluency or absence of an accent is not relevant for a substantial number of jobs. Employers must be careful about requiring English language proficiency and must be sure that the language skill level being sought does not exceed the level required for successful job performance.

10. WHAT IS YOUR MARITAL STATUS? WHAT IS YOUR SPOUSE'S NAME?

These inquiries are not relevant to job performance and could be used to discriminate. An employer may not discriminate against a person because of their status of being married, single, divorced, separated, or widowed.

11. DO YOU SERVE IN THE MILITARY?

Questions relevant to experience or training received in the military, or to determine eligibility for any veteran's preference required by law are acceptable. However, it is unlawful to discriminate against someone because of membership in the National Guard, a state defense force, or another state or federal reserve unit.

12. DO YOU SMOKE OR DRINK ALCOHOL?

An employer may not discriminate against a person for using (or not using) lawful products off the employer's premises during non-working hours. The law contains some exceptions, but employers generally should avoid inquiries in this area.

A FINAL NOTE

It is reasonable to assume that all questions on an application form or in an interview are for a specific purpose, and that decisions are made on the basis of the answers given. In deciding if a question is lawful, the employer should determine whether the information being sought is necessary. For example, why is it important to know a person's age, or their ability to speak Spanish? If the answer does not provide job-related information or determine a person's qualifications, it may be better not to ask the question. Questions which do not produce information that helps the employer choose the most qualified applicant tend to raise questions as to the employer's motivation for asking the question.

This is one of a series of fact sheets highlighting programs of the Wisconsin Department of Workforce Development. It is intended to provide only a general description of the law, not a legal interpretation. The Equal Rights Division has additional informational materials explaining various aspects of the fair employment law.