



Office of the City Clerk/Personnel Director
City of Stoughton
381 E. Main St.
Stoughton, WI 53589
(608)873-6677

MEMORANDUM

To: CA/CP Committee
From: Nick Probst, City Clerk/Personnel Director
Date: April 27, 2012
RE: Community Based Groups Organization

The previous CA/CP Committee did not reach a consensus on how to proceed with the reorganization of the Food Pantry, Holiday Fund, and Arts Council. The named groups are all non-profit organizations that collect donated funds for a specified purpose. The groups are established under the tax exempt status of the municipality; therefore, none of the groups currently operate as a 501(c)3 private tax exempt entity. The donated funds the groups collect are funds of the City of Stoughton and are processed through the City of Stoughton Finance Department.

The groups are currently organized under the City by Stoughton Code of Ordinances Sec. 2-66(b)(2).

Community affairs/council policies committee. The oversight responsibilities of the community affairs/council policies committee include food pantry, hall of fame, holiday fund, opera house, cable commission, commission on aging, arts council, seniors in need, and other committees related to community or social projects, as well as rules and procedures to be followed by all standing committees and the council, policies to be followed by elected and appointed officials in the conduct of city business and all ordinances and policies concerning or affecting such subjects.

A few potential issues with the current organization of the groups have been identified in regards to liability, purchasing, and program services. Attached is a model volunteer policy and liability waiver from our liability insurance provider, CVMIC. The policy provides a good starting point for establishing a uniform volunteer policy for these groups and other department uses of volunteers. A derivation of the CVMIC Model Policy and appointment of appropriate Department Heads as program directors would allow the City to efficiently operate these groups while maintaining liability protection.

The structure for supervision of the groups that was discussed previously was the City Clerk for the Food Pantry, the Senior Center Director for the Holiday Fund, and the Opera House Director for the Arts



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Council. The Department Head, appointed as director, would then be responsible to the CA/CP Committee, which would hold program oversight.

The reorganization of the groups was previously presented as a “proposal” to formally join the City of Stoughton with a deadline for acceptance. By the ordinance listed above, the City acknowledges oversight of these groups through the CA/CP Committee. The organization of these groups, if interpreted to be within the City, would not require a proposal to be made to reorganize their structures, policies or supervision. The City, by the CA/CP Committee and Common Council, may approve a new volunteer policy and appoint a director or supervisor for any of the community based groups.

A proposal in the form of an offer to the groups assumes separation between the City and the group sufficient for the group to make autonomous organizational decisions. A proposal also implicitly offers the opportunity to separate from the City by refusal of the proposal. If the interpretation of the current status of these groups is that they are independent groups operating within the City, the proposal or offer option may be appropriate.

Please direct any legal or liability related questions to me in regards to the community based groups as the committee determines the best resolution for the future operation.

R/S,

Nick Probst, City Clerk/Personnel Director

Volunteers Model Policy

Issue Date:

April 8, 2010

Revision(s):**Pages:**

5

Policy Source:

Cities and Villages Mutual Insurance Company

Special Instructions: This is a Model policy. Modifications to this policy may be necessary depending on the City's labor contracts, personnel policies or other practices.

I. PURPOSE

The City recognizes the great contributions volunteers can make to the City of _____.
The potential liability exposure in engaging the services of volunteers is also recognized.

II. POLICY

A volunteer is a person recognized and authorized by the City to perform services for the City without promise, expectation or receipt of compensation for services rendered. Management of volunteers insures that important work is done well and City liability is minimized. Volunteers are expected to perform in cooperation with City staff and comply with the same rules and regulations applicable to City employees.

a. Screening and Background Checks

1. Consistent use of appropriate screening and background checks will help assure that properly qualified individuals are selected to perform volunteer activities. Such techniques will also help screen out individuals whose background may render them unsuitable for particular activities.
2. Aggressive screening and background checks are required by law and are critical for volunteer positions that involve work or contact with children, youth, the elderly or other vulnerable groups.
3. As part of the screening process, it may be necessary to obtain the applicant's authorization to conduct appropriate screening and background checks. The scope of these activities will be determined by the particular volunteer activities and may include:
 - a. Forms requesting information on prior convictions and misconduct.
 - b. Contacting personal and employment references.
 - c. Criminal background checks, including the use of information from the National Crime Information Center (NCIC), state crime information center and state/local sex offender registries.
 - d. Motor vehicle records checks.
 - e. Prior employment and military background checks.
 - f. Verification of education, training, certification and licenses.
 - g. Personal, face-to-face interviews.

b. Vehicle Operation

1. Some volunteers may be required to operate their own motor vehicle during the course of their volunteer work.
 - a. Volunteers must provide proof of insurance.
 - b. A valid driver's license should be verified and documented.
 - c. Volunteers shall not drive City owned vehicles or operate powered motor vehicle equipment such as tractors, forklifts, loaders or other equipment.

c. Safety Hazards

1. Volunteers must be provided with the knowledge and skills necessary to perform their tasks in a safe manner. The supervisor shall be responsible for determining whether the volunteer has the skills and ability to perform assigned tasks safely, considering:
 - a. The extent of safety training depends upon the type of activities assigned.
 - b. The supervisor shall ensure that volunteers are properly trained to perform activities safely. Training shall be conducted by the supervisor or Safety staff before the volunteer is assigned any potentially hazardous duty.
2. Volunteers shall be provided with personal protective equipment (PPE), where it is warranted. Personal protective equipment will depend on the specific activity, and may include: safety vests, eye protection, hand protection, hearing protection and head protection.
 - a. Supervisors shall train volunteers on use of PPE and enforce its use.

d. Volunteer Liability

1. Various laws limit the liability of volunteers. The most pertinent law is the Volunteer Protection Act of 1997, which includes volunteers who act on behalf of public entities. This act provides that no volunteer of a public entity is liable for harm caused by an act of omission when working on behalf of the entity. In order for a volunteer to be protected, the following requirements must be met:
 - a. The volunteer must have been acting in the scope of their responsibilities for the City.
 - b. Where appropriate or required, the volunteer must have been properly licensed, certified or authorized to perform the activity by state authorities.
 - c. ~~the harm must not have been caused by willfull, reckless or criminal misconduct,~~ gross negligence or a conscious, flagrant indifference to the rights or safety of the individual who suffered the harm; and
 - d. The harm must not have been caused by the volunteer's operation of a vehicle for which the state requires the vehicle's owner or operator to possess a driver's license or to maintain insurance.

e. Compensation

1. A volunteer is a person recognized and authorized by the City to perform services for the City without promise, expectation or receipt of compensation for services rendered. Failure to manage a volunteer under this premise can convert the volunteer to an "employee", whereby compensation and benefits might then be mandated.
2. Volunteers are not eligible for worker's compensation.
3. Volunteers must sign the City of _____ Volunteer Waiver Form.

4. Per the Fair Labor Standards Act (FLSA) (29 CFR 553.103) City employees are prohibited from volunteering without pay to perform the same type of services the individual is employed to perform.

f. Youth Volunteers

1. During the summer the use of minor volunteers (children 17 years old or younger) may increase. To minimize risk, supervisors in departments where youth volunteer should be aware of the laws governing work by minors:
 - a. No minor 17 years old or younger shall be permitted to perform activities in any occupation determined to be "particularly hazardous" under the FLSA. Outside of hazardous or potentially hazardous duties, the FLSA permits minors to perform most other types of work.
 - b. "Particularly hazardous" duties include and minors may not:
 1. Drive or help a driver, load or unload goods on or off trucks or conveyors.
 2. Risk falling 10 feet or more, work on a ladder, scaffold, etc.
 3. Operate power driven hoists.
 4. Operate power woodworking tools, circular saws, band saws, grinders, cutters, drills and any similar power hand tool or equipment.
 5. Work on construction or building repair projects.
 6. Operate power mowers.
 7. Work on wrecking, roofing, excavating and similar projects.
 - c. Hours of work
 1. Youth 16 and 17 years and older may generally work 8 hours per day on non-school weekdays.
 2. Youth 14 and 15 years old may work outside school hours:
 - a. No more than 3 hours on school days.
 - b. No more than 18 hours per week on school weeks.
 - c. No more than 8 hours per day on non-school days.
 - d. No more than 40 hours per week when school is not in session.
 - e. May generally work only between the hours of 7 a.m. and 7 p.m., except from June 1 through Labor Day, when permissible hours are extended to 9 p.m.
 - d. Parental Consent: Volunteers under the age of 18 must have documented parental consent. The parent or legal guardian must sign the City of _____ Volunteer Waiver Form.

g. Rights of Volunteers

1. To be respected and valued and to know what their rights and responsibilities are.
2. To be provided necessary information to carry out their role as volunteers and to know what is expected of them.
3. To be provided with orientation and training appropriate to their tasks.
4. To be given support and supervision from a designated person in their work group.
5. To be provided a safe working environment.
6. To be free from harassment or discrimination.

h. Volunteer Responsibilities

1. To carry out the agreed upon duties to the best of their abilities.
2. To work with the aims, objectives, values and goals of the City.

3. To work under the City of _____ rules, regulations and policies.
4. To be honest and reliable.

i. Responsibilities of City Supervisors Who Utilize Volunteers

1. To provide orientation, training, personal protective equipment (PPE) and assistance to enable volunteers to meet the expectations of their volunteer positions.
2. To provide ongoing support and supervision.
3. To treat the volunteer as an equal partner in achieving the goals of the City.
4. To ensure compliance with all aspects of this policy.

**City of
Volunteer Waiver Form**

It is my desire to perform volunteer services for the benefit of the City of _____ and _____. I understand that the City is allowing me to perform these volunteer services subject to my complete understanding that the City will not provide me with any type of insurance or other loss coverage.

Based upon the above, I agree to indemnify, defend and hold harmless and release the City and its elected and appointed officials, officers, employees and authorized representatives from and against any and all liability, loss, damage, expenses, costs (including attorney's fees) arising out of or in any way attributed to the activities performed at _____ (site) on _____ (date).

By signing this agreement, I acknowledge that I have read it in its entirety, have given the terms due consideration, understand the terms and understand that I am freely and voluntarily giving up certain rights. I further intend that this agreement shall be binding upon all of my successors, heirs, assigns, receivers and the like.

Print Name: _____ Last _____ First _____ MI _____

Signature of Volunteer or Parent/Guardian, if minor. _____ Phone Number _____

Street Address _____

City _____ State _____ Zip Code _____

_____ Date

_____ Name of Emergency Phone Contact _____ Phone Number _____

City of Stoughton Food Pantry Policy

**The City of Stoughton's Food Pantry Mission is
to assist those in need of food
who reside in the Stoughton Area School District.**

The City of Stoughton Food Pantry follows State and Federal guidelines on income levels to qualify for The Emergency Food Assistance Program, (TEFAP), or Commodities distribution.

Emergency food is available even if a person or family is not eligible under these income guidelines. Emergency food is available from the City of Stoughton Food pantry no more than four times a year. In addition, a referral will be made to other area agencies that may be able to provide further assistance.

The Pantry's first priority is providing food. The second priority is providing personal care and hygiene items when they are available.

The Mission Statement and Policy were approved
by the Stoughton City Council on March 26, 2002.