

CHAPTER 9.30 Criminal History Record Check Policies Concerning Applicants for Employment and Certain Volunteers

§9.30.1 PURPOSE

(A) In order for the City government to operate effectively, persons selected for employment or as a public service volunteer with the City of Independence must have the highest degree of public trust and confidence.

(B) All City employees and public service volunteers represent the City to its citizens. Many City employees and volunteers have responsibilities to regulate and maintain public health and safety. Some City employees have the ability and authority to bind the City contractually, have access to public funds and property, and possess access to privileged and proprietary information submitted to the City in confidence.

(C) There is a need to protect youths from harmful or dangerous encounters and to that end a review of the criminal records of those who volunteer with youth in the City is necessary and appropriate.

(D) Tow truck drivers interact with the public in stressful situations (accidents, disabled vehicles, etc.) in which they can be taken advantage of by the tow truck driver. Therefore, it is necessary and appropriate that the tow truck driver's criminal record history is reviewed.

(E) Liquor license applicants are required to apply to the City for recommendation to the Oregon Liquor Control Commission (OLCC) in their licensing process. It is necessary and appropriate that such applicants' criminal record history is reviewed in the City's recommendation process.

§9.30.2 PROCEDURE

(A) All applicants for employment and appointed volunteers with the City will be required to authorize the City to conduct a criminal offender information check through the OSP LEDS system.

(B) A member of the Police Department trained and authorized to perform criminal history checks through the LEDS system will conduct the check on the prospective employee or volunteer and orally report to the Human Resources Department that the applicant's records indicates "no criminal record" or "criminal record". If the applicant's record is reported as "criminal record", the City will, under OAR 257-010-0025, request a written criminal history report from the OSP Identification Services Section. Human Resources will make the written criminal history record available to the appropriate official for his or her consideration in making the selection.

(C) The written criminal history record on persons that are not hired or appointed as a volunteer will be retained in accordance with the requirements of the City General Records Retention Schedule and thereafter will be destroyed in accordance with city records policies. The criminal history record of applicants and volunteers with a criminal history that are hired or appointed will become a part of the confidential personnel files of that employee or volunteer. Access to confidential personnel files is limited to only authorized persons who have an official need to access such files that is sanctioned by law or regulation.

(D) Non-profit organizations serving youth in the community, including, but not limited to YMCA, Nite Court, youth baseball, youth basketball, youth soccer and youth football organizations may request that the Police Department perform criminal history checks. Subject to workload priorities and staff availability, the Police Department may perform such criminal record checks on the prospective youth volunteers. The Police Department shall confirm only if a criminal record exists, without any detail of such record. The youth volunteer organization may request criminal record history directly with the Oregon State Police pursuant to state statute and administrative rule.

(E) Criminal history checks of contracted tow truck drivers and liquor license applicants shall be performed by the Police Department.

ORDINANCE NO. 587

AN ORDINANCE REQUIRING USE OF CRIMINAL OFFENDER INFORMATION FOR APPLICANTS FOR CITY EMPLOYMENT AND APPOINTED VOLUNTEERS

WHEREAS, the City Council has determined that the City is a criminal justice agency under state law with access, by agreement with the Oregon State Police, to criminal offender information maintained in the LEDS system, and;

WHEREAS, Oregon law allows the use of that criminal offender information for criminal justice agency employment, if required by local ordinance, and the Council desires to authorize such use on certain terms so as to preserve the public's confidence in the integrity of the City's employees, to avoid entrusting those with histories of criminal conduct with positions that interact with the public generally, with private and public property and with other employees.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF JACKSONVILLE, OREGON, ORDAINS AS FOLLOWS:

Section 1: An offer of employment to all potential new City employees or appointed volunteers shall be conditioned on the applicant's prior written consent to perform a check of the applicant's criminal offender information, if any, as shown in the records maintained in the LEDS system. Use of the LEDS system shall be subject to the City's agreement with the Oregon State Police for such use and such other and further terms and conditions imposed by the Oregon State Police from time to time. Information obtained from the LEDS system shall be deemed personal and private information, shall be kept confidential in the applicant's file except for those City employees with a need to know it, and shall be destroyed at such time as the other application materials are destroyed as allowed by state law on public records.

Section 2: An applicant's conviction for any felony within the past 10 years preceding the date of application or conviction for any crime of dishonesty, crime against a person or crime against property within the past five years shall be grounds to deny City employment or appointment as a volunteer to the applicant.

Section 3: An applicant who is disqualified from employment or appointment as a volunteer with the City based on the criminal offender information, shall be informed of the basis of disqualification and may appeal the disqualification only on the grounds that the information is incorrect or that the applicant has been rehabilitated.

Any such appeal must be in writing and must state with particularity, the grounds for the appeal. All appeals must be received by the City no later than seven (7) calendar days from the date of notice to the person of disqualification to be considered. The City Administrator or his designee shall determine all appeals timely filed and shall state the reasons for granting or denying the appeal in writing within seven (7) days from the date the appeal is received.

Section 4: The City Administrator or his designee shall cause the application form for City employment or appointment as a volunteer to contain notice to the person that any job offer will be conditioned on the person's written consent to a check of the applicant's criminal offender information.

Signed by me in open session in authentication of its passage this 7th day
of October, 2008.

James W. Lewis, Mayor

ATTEST:

Sandra Miller, Recorder/Treasurer

Chapter 1.50
CRIMINAL HISTORY RECORD POLICIES

Sections:

- 1.50.010 Applicant for Employment or Volunteers.
- 1.50.020 Criminal History Authorization.
- 1.50.030 Authorization to Perform.
- 1.50.040 Disposition of Criminal History.
- 1.50.050 Applicants for OLCC License
- 1.50.060 Prior Written Authorization Required

1.50.010 Applicant for Employment or Volunteers.

Certain applicants for employment and appointed volunteers with the City will be required to authorize the City to conduct a criminal offender information check through the OSP LEDS system, including the Oregon CCH System. The city manager is authorized to designate the types of employees and volunteers subject to this background check. In making these designations, the city manager shall consider whether the employee or volunteer is involved with the administration of criminal justice, provides care or services to children, elderly persons or dependent persons, obtains confidential information, or accounts for money or is otherwise in a position of trust, or whether the public interest would be advanced by a criminal background check.

1.50.020 Criminal History Authorization.

When authorized by the chief of police, and as warranted for qualified entities under state regulations, who work with vulnerable individuals, the North Plains Police Department may run a check in order to provide information relevant to safety concerns. The requestor will then be referred to OSP to obtain the record. The Police Department shall confirm only if a criminal record exists, without any detail of such record. The organization may request criminal record history directly with the Oregon State Police pursuant to state statute and administrative rule.

1.50.030 Authorization to Perform.

A member of the Police Department trained and authorized to perform criminal history checks through the LEDS system will conduct the check on a prospective City employee or volunteer and report to the requesting city department that the applicant's records indicates "no criminal record" or "criminal record." If the applicant's record is reported as "criminal record", the City will, under OAR 257-010-0025, request a written criminal history report from the OSP Identification

Services Section. The City will make the written criminal history record available to the appropriate official for his or her consideration in making the selection.

1.50.040 Disposition of Criminal History.

The written criminal history record on persons that are not hired or appointed as a volunteer will be retained in accordance with the requirements of OAR 166-200-0090 for a period of three years and thereafter will be destroyed. The criminal history record of applicants and volunteers with a criminal history that are hired or appointed will become a part of the confidential personnel files of that employee or volunteer. Access to confidential personnel files is limited to only authorized persons who have an official need to access such files that is sanctioned by law or regulation. All criminal offender information records shall be maintained in secure files.

1.50.050 Applicants for OLCC License

Criminal history checks of liquor license applicants shall be performed by the North Plains Police Department. The information shall be considered by the City Council in making any recommendation to the OLCC.

1.50.060 Prior Written Authorization Required

When criminal offender information is sought, the City must obtain prior written consent by the individual or documentation of the notice required under ORS 181.557(2) (notice of procedures for challenging inaccurate information and of rights under federal civil rights laws).

**CITY OF REDMOND
ORDINANCE NO. 2008-01**

AN ORDINANCE ESTABLISHING ACCESS TO THE LAW ENFORCEMENT DATA SYSTEM FOR CITY OF REDMOND EMPLOYEE AND VOLUNTEER BACKGROUND CHECKS.

WHEREAS, The City of Redmond obtains criminal conviction record information through the Oregon State Police (OSP) to review employee and volunteer service applicants; and

WHEREAS, ORS 181.555(1) AND OAR 257-010-0025(1)(b) establish procedures for access to criminal conviction record information possessed by the Oregon State Police (OSP) through The Law Enforcement Data System (LEDS); and

WHEREAS, OAR 257-015-0060(2)(a) allows agencies authorized by OSP to access Computerized Criminal History records via LEDS; and

WHEREAS, The City of Redmond finds that it is in the public interest to improve efficiency in obtaining and assessing criminal conviction records by accessing OSP criminal conviction records through the LEDS database by the City of Redmond Police Department for applicants for positions of employment or voluntary public service that require certain services.

NOW, THEREFORE, THE CITY OF REDMOND ORDAINS AS FOLLOWS:

SECTION ONE: PUPOSE. All City of Redmond employees and public service volunteers represent the City of Redmond to its citizens. Many City of Redmond employees and volunteers have responsibilities to regulate and maintain public health and safety. Some City of Redmond employee classifications require access to public funds and property, and possess access to privileged and proprietary information submitted to the City of Redmond in confidence.

SECTION TWO: POLICY. In order for The City of Redmond government to operate effectively, persons selected for employment or as a public service volunteer with The City of Redmond must have the highest degree of citizen and public trust and confidence.

SECTION THREE: To ensure that selected individuals have the highest degree of citizen trust and confidence, citizens employed or volunteering for the City of Redmond will have a criminal history check conducted through the Law Enforcement Data System.

SECTION FOUR: Applicants for employment and appointed volunteers with The City of Redmond will be required to authorize the City of Redmond to conduct a criminal conviction background check through the Oregon State Police Law Enforcement Data System (LEDS) system if their job requires the following activities:

- Delivering services to minors.
- Handling/processing cash and/or checks.
- Law enforcement related duties (deputies, detention, and parole/probation).
- Certified and/or licensed Health care workers and emergency responders.
- Maintaining confidential medical and/or criminal records.
- Building Services/Maintenance.
- Any other classification of job duties authorized by the City of Redmond.

SECTION FIVE: RETENTION OF AUTHORIZATION. The Human Resources Department, who will request that the City of Redmond Police Department conduct the criminal history check, will maintain the criminal convictions authorization form signed by the applicant.

SECTION SIX: PROCEDURES FOR OBTAINING BACKGROUND HISTORY. An authorized employee of The City of Redmond, trained and authorized to perform criminal conviction checks through the LEDS system, will conduct the check on the prospective employee or volunteer and orally report to the Human Resources Department that the applicant's record indicates "no conviction record" or "conviction record". If the applicant's record is reported as "conviction record", the Human Resources Department will, under OAR 257-0010-025(B), request a written criminal conviction report from the OSP identification services section and pay the applicable fee for this service. The Human Resources Department will make the written criminal conviction record available to the employment or volunteer selecting employee for his or her consideration in making the selection.

SECTION SEVEN: RETENTION OF CRIMINAL BACKGROUND HISTORY. The written criminal conviction record on persons that are not hired or appointed as a volunteer will be retained in accordance with the requirements of Oregon Administrative Rule record retention requirements. The criminal conviction record of applicants and volunteers with a criminal conviction that are hired or appointed, will become a part of the confidential personnel file of that employee or volunteer. Access to confidential personnel files is limited to only authorized persons who have an official need to access such files that is sanctioned by law or regulation.

SECTION EIGHT: USE OF CRIMINAL BACKGROUND HISTORY. Applicants for employment or appointment as a volunteer that have a felony criminal conviction, or a history of conviction of a misdemeanor involving moral turpitude or theft, will be closely examined by the City of Redmond Human Resources Department to determine if the applicant possesses the required degree of citizen and public trust and confidence. The City of Redmond will not rely exclusively on LEDS records but will request confirmation from the applicant. Each employment or volunteer selection will, however, be made on an individual, 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 check. Factors such as the age of an offender at the time of the offense, the type of offense and subsequent rehabilitation, and the public sensitivity of

the position under consideration, must be taken into account in evaluating a criminal conviction report. The City of Redmond Human Resources Department will approve the final candidate selected for employment or volunteer duties.

SECTION NINE: LIMITATION ON HIRING OR APPOINTING VOLUNTEERS. Hiring or appointing a volunteer with a criminal conviction record will require a positive recommendation by the Department Head selecting the employee or volunteer, and approval from the Human Resources Department, after full disclosure and consideration of the criminal conviction and the applicant.

SECTION TEN: This ordinance is necessary for the preservation of the peace, health and safety of the City for the reason that the highest level of public trust and confidence in City representatives is maintained and, therefore, this ordinance shall be effective thirty (30) days after date of passage.

PASSED by the City Council and **APPROVED** by the Mayor this 12th day of February, 2008.

 /s/ Alan Unger
Alan Unger, Mayor

ATTEST:

 /s/ Kelly Morse
Kelly Morse, Deputy City Recorder

GENERAL ORDINANCE NO. 08-1293

AN ORDINANCE AUTHORIZING THE CITY OF THE
DALLES POLICE DEPARTMENT TO CHECK CRIMINAL
INFORMATION RECORDS OF THE STATE OF OREGON
LAW ENFORCEMENT DATA SYSTEM**THE CITY COUNCIL OF THE CITY OF THE DALLES ORDAINS AS FOLLOWS:**Section 1. Purpose.

- A) In order for City government to operate effectively, persons selected for employment with the City of The Dalles must have the highest degree of public trust and confidence.
- B) All City employees represent the City to its citizens. Many City employees have responsibilities to regulate and maintain public health and safety. Some City employees have the ability and authority to bind the City contractually, have access to public funds and property, and possess access to privileged and proprietary information submitted to the City in confidence.
- C) Liquor license applicants are required to apply to the City for recommendation to the Oregon Liquor Control Commission (OLCC) in their licensing process. It is necessary and appropriate that such applicants' criminal record history is reviewed in the City's recommendation process.
- D) Applicants for a commercial resale business license, and for a transient merchant license can be denied issuance of a license as a result of certain criminal convictions. It is necessary and appropriate that such applicants' criminal record history is reviewed as part of the City's licensing process.

Section 2. Procedure.

- A) Requests for criminal offender information records shall be conducted in accordance with the procedures provided herein and ORS Chapter 181, and specifically ORS 181.555 and 181.557, and administrative rules promulgated by the Oregon State Police including OAR 257-10-025 to 257-10-050, all of which establish procedures for access to OSP criminal record information through LEDS.

- B) Any person subjected to a criminal offender information record check under the provisions of this ordinance will be required to authorize the City to conduct a criminal offender information check through the OSP LEDS. If the person does not consent for the City of The Dalles to make a criminal offender record check, but such a check is nevertheless required, the City shall provide the person written notice that a criminal offender record check may be made. Notice required under this section shall be provided prior to the time the request is made, and shall include:
- 1) Notice of the manner in which the individual may be informed of the procedures adopted under ORS 181.555(3) for challenging inaccurate criminal offender information; and
 - 2) Notice of the manner in which the individual may become informed of rights, if any, under Title VII of the Civil Rights Act of 1964, and notice that discrimination by an employer on the basis of arrest records alone may violate federal civil rights law and that the individual may obtain further information by contacting the Bureau of Labor and Industries.
- C) The City Clerk of the City of The Dalles is responsible for maintaining any signed consents by persons applying for employment positions, authorizing the City of The Dalles to conduct a criminal offender information check through LEDS, and requesting that a criminal history check be made. In addition, the City Clerk shall maintain a copy of any notices provided by the City where consent is not granted but where a check is required.
- D) The City Clerk of the City of The Dalles is responsible for maintaining any signed consents for the City to conduct a criminal offender information check through LEDS by persons applying for a commercial resale business license or a transient merchant license, and for licenses or license renewals issued by the OLCC, authorizing the City of The Dalles to conduct a criminal offender information check through LEDS, and requesting that such checks be made. In addition, the City Clerk shall maintain a copy of any notices provided by the City where consent is not granted but where a check is required.
- E) A member of the Police Department trained and authorized to perform criminal history checks through the LEDS system will conduct the check on the prospective employee and orally report to the City Clerk that the applicant's records indicates "no criminal record" or "criminal record". If the applicant's record is reported as "criminal record", the City will, under OAR 257-010-0025, request a written criminal history report from the OSP Identification Services Section, and pay the applicable fee for this service. The City will make the written criminal history record available to the appropriate official for his or her consideration in making the hiring decision.

- F) For applicants for employment, the appropriate official making the hiring decision shall review the information obtained in the written criminal history report, on an individual, case by case basis, taking into account the person's qualifications, the requirements of the employment, and the results of the criminal offender information check. Factors such as the age of the offender at the time of the crime or offense, the type of crime or offense and subsequent rehabilitation, and the public sensitivity or nature of the position under consideration shall be taken into account in evaluating a criminal offender information report for purposes of employment.
- G) For applicants for a commercial resale business license or a transient merchant's license, or for a liquor license involving a recommendation to the OLCC, the appropriate official shall review the information obtained in the written criminal history report to determine whether the applicant has been convicted of a crime which would be a basis for denying the license application.
- H) The written criminal history record on persons that are not hired will be retained in accordance with the requirements of the City General Records Retention Schedule, and thereafter will be destroyed in accordance with City records retention policies. The criminal history record of applicants with a criminal history that are hired will become a part of the confidential personnel files of that employee. Access to confidential personnel files is limited to only authorized persons who have an official need to access such files which access is sanctioned by law or regulation.
- I) Subject to workload priorities and staff availability, the Police Department may perform such criminal record checks on the prospective volunteers for the Mid-Columbia Fire and Rescue District and applicants for employment with the Mid-Columbia Fire and Rescue District and the Northern Wasco County Parks and Recreation District. The Police Department shall confirm only if a criminal record exists, without any detail of such record. The Fire District or the Parks and Recreation District may request criminal record history directly with the Oregon State Police pursuant to state statute and administrative rule.
- J) Criminal history checks of applicants for a commercial resale business, a transient merchant license, and liquor license applicants shall be performed by the Police Department. The Police Department shall report to the City Clerk whether the applicant's record indicates "no criminal record" or "criminal record". If the applicant's record is reported as a "criminal record", the City will, under OAR 257-010-0025, request a written criminal history report from the OSP Identification Services Section, and pay the applicable fee for this service. The City will make the written criminal history record

available to the appropriate official for his or her consideration in making a

determination as to whether the license application should be granted or denied.

Section 3. Savings Clause. The provisions of this ordinance are severable, and a determination by a court of competent jurisdiction that any provision is unconstitutional or otherwise invalid shall have the effect of severing such provision declared unconstitutional or otherwise invalid; however, any such determination shall not affect the remaining provisions, which shall continue to be in full force and have all legal effect.

Section 4. Effective Date. This ordinance shall take effect thirty (30) days following the date of its passage and adoption.

ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR MAY 12, 2008.