

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.