

An Ordinance Amending Chapter 16 Licenses Of the Code of the City of Peabody

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEABODY AS FOLLOWS:

SECTION ONE: That the Code of the City of Peabody adopted on January 9, 1986, and amended, is hereby further amended:

By amending Article I "In General" and adding a new Section 16-5 entitled Civil Fingerprinting as follows:

§ 16-5.1 **Purpose and legislative authorization.**

§ 16-5.2 **Applicability; notification of applicant.**

§ 16-5.3 **Processing; communication of results.**

§ 16-5.4 **Reliance on results.**

§ 16-5.5 **Compliance with law, regulation and City policy.**

§ 16-5.6 **Fees.**

§ 16-5.1 **Purpose and legislative authorization.**

A.

In order to protect the health, safety and welfare of the inhabitants of the City of Peabody, and as authorized by MGL c. 6, § 172B1/2, this chapter shall require:

(1)

Applicants for certain City licenses permitting the conduct of specific occupational activities within the City as enumerated in §16-5.2, below, to submit to fingerprinting by the Peabody Police Department;

(2)

The Police Department to conduct criminal record background checks based on such fingerprints; and

(3)

The City to consider the results of such background checks in determining whether or not to grant a license.

B.

The City authorizes the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Systems (the "DCJIS") and the Federal Bureau of Investigation (the "FBI") as may be applicable to conduct on behalf of the City and its Police Department fingerprint-based state and national criminal record background checks, including of FBI records, consistent with this chapter. The City authorizes the Police Department to receive and utilize records of the State Police, the DCJIS and the FBI in connection with such background checks, consistent with this chapter.

§ 16-5.2 Applicability; notification of applicant.

A.

Any applicant for a license to engage in any of the following occupational activities organized by category in this Code all within the City shall submit a full set of fingerprints taken by the Peabody Police Department within 10 days of the date of the application for a license for the purpose of conducting a state and national criminal record background check to determine the suitability of the applicant for the license:

(1)

Solicitors and peddlers under Chapter 26.

(2)

Amusements under Chapter 5

(3)

Fortuneteller under Chapter 16-20.75

(4)

Entertainment license applicant under Chapter 16-20.5

(5)

Dealers in junk, secondhand articles and antiques under Chapter 24

(6)

Secondhand motor vehicle dealer under Chapter 16-29

(7)

Vehicles for hire under Chapter 30

(8)

Ice cream truck vendor under Chapter 16-28

B.

At the time of fingerprinting, the Police Department shall notify each individual who is fingerprinted that his or her fingerprints will be used to check such individual's FBI and state criminal history records.

§ 16-5.3 Processing; communication of results.

A.

The Police Department shall transmit fingerprints it has obtained pursuant to § **16-5.2** of this chapter to the Identification Section of the Massachusetts State Police, the DCJIS and/or the FBI as may be necessary for the purpose of conducting fingerprint-based state and national criminal records background checks of license applicants specified in the said section.

B.

The Police Department shall provide the applicant with a copy of the results of his or her fingerprint-based criminal record background check and supply the applicant the opportunity to complete, or challenge the accuracy of, the information contained in it, including in the FBI identification record. The Police Department shall also supply applicants with information regarding the procedures for obtaining a change, correction or updating of a criminal record, including a copy of 28 CFR Part 16.34 pertaining to FBI identification records. In no event shall the Police Department render a suitability evaluation pursuant to the subsection below until it has taken the steps detailed in this subsection and otherwise complied with any other procedures required by any City policy applicable to licensing-related criminal record background checks.

C.

The Police Department shall communicate the results of fingerprint-based criminal record background checks to the applicable licensing authority within the City. The Police Department shall in addition render to the licensing authority its evaluation of the applicant's suitability for the

proposed occupational activity based upon the results of the criminal records background check and any other relevant information known to it. In rendering its evaluation, the Police Department shall consider all applicable laws, regulations and City policies bearing on an applicant's suitability. The Police Department shall indicate whether the applicant has been convicted of, or is under pending indictment for, a crime that bears upon his or her suitability, or any felony or misdemeanor that involved force or the threat of force, controlled substances or a sex-related offense.

§ 16-5.4_Reliance on results.

Licensing authorities of the City shall utilize the results of fingerprint-based criminal record background checks for the sole purpose of determining the suitability of the subjects of the checks in connection with the license applications specified in § **16-5.2**, above. A City licensing authority may deny an application for a license on the basis of the results of a fingerprint-based criminal record background check if it determines that the results of the check render the subject unsuitable for the proposed occupational activity. The licensing authority shall consider all applicable laws, regulations and City policies bearing on an applicant's suitability in making this determination. The licensing authority shall not deny a license based on information in a criminal record unless the applicant has been afforded a reasonable time to correct or complete the record or has declined to do so.

§ 16-5.5_Compliance with law, regulation and City policy.

Implementation of this chapter and the conducting of fingerprint-based criminal record background checks by the City shall be in accordance with all applicable laws, regulations and City policies. The Chief of Police is authorized to promulgate regulations for the implementation of this chapter. The City shall not disseminate criminal record information received from the FBI to unauthorized persons or entities.

§ 16-5.6_Fees.

The fee charged by the Police Department for the purpose of conducting fingerprint-based criminal record background checks shall be \$100. A portion of the fee, as specified in MGL c. 6, § 172B1/2, shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder of the fee may be retained by the City for costs associated with the administration of the fingerprinting system.

SECTION TWO: All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION THREE: This ordinance shall take effect as provided by law.

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SUBMITTED TO HONOR THE MAYOR, DECEMBER 19, 2017
APPROVED BY HIS HONOR THE MAYOR, DECEMBER 19, 2017

(Hon. Edward A. Bettencourt, Mayor)

ATTEST

(Timothy E. Spanos, City Clerk)