

A BILL FOR AN ORDINANCE OF THE CITY OF)
LEBANON, OREGON AMENDING BILL NO. 16,)
ORDINANCE NO. 2303, ESTABLISHING)
CRIMINAL HISTORY RECORD CHECK)
POLICIES CONCERNING APPLICANTS FOR)
EMPLOYMENT AND APPOINTED VOLUNTEERS)

ORDINANCE BILL NO. 2017-7

ORDINANCE NO. 2895

WHEREAS, the City of Lebanon finds that its employees and volunteers working for the City hold position of public trust; and

WHEREAS, the City of Lebanon has an interest in reviewing the prior criminal records of potential employees or volunteers to ensure that the City can uphold its responsibility in maintaining public trust; and

WHEREAS, Oregon law provides a procedure whereby such records, if existing, may be reviewed; and

WHEREAS, the City of Lebanon desires to amend current procedures for the investigation of potential employees or volunteers.

NOW, THEREFORE, BE IT RESOLVED:

Section 1. Purpose. The purpose of this Ordinance is to authorize the city of Lebanon Police Department to access Oregon State Police (OSP) criminal offender information through the Law Enforcement Data System (LEDS) for applicants seeking employment (including personal services contracts) and/or volunteer work with the city of Lebanon, in accordance with OAR 257-010-0025(1)(a).

Section 2. Procedure. All proceedings pursuant to this Ordinance shall be conducted in accordance with ORS 181A.230 and OAR 257-010-0025, which establishes procedures for access to criminal record information possessed by the Oregon State Police (OSP) through the Law Enforcement Data System (LEDS), as supplemented below.

- A. Any applicant offered employment and all appointed volunteers with the city of Lebanon will be required to authorize the City to conduct a criminal offender information check through the OSP LEDS system.
- B. The Human Resource Office will maintain the criminal history authorization forms and request that a criminal history check be performed if it is determined that the criminal history check will be in the best interest of the City in filling the position.
- C. The Lebanon Police Department will conduct the check on the applicant offered employment or the appointed volunteer and report to the Human Resource Office that the applicant's record indicates "no criminal record" or "criminal record."

- D. If the applicant's record is reported as "criminal record," the Chief of Police, in accordance with OAR 257-010-0025(1)(c), will request a written criminal history report from the OSP Identification Services Section. The City Department in charge of the hiring or appointing decision shall be responsible for any applicable fee for this service. The Chief of Police will review the criminal history report using the city's Employee and Volunteer Screening Policy (See Attachment A) as criteria for exclusion, and using those disqualifying factors, will make a determination to approve or deny the selection.
- E. The written correspondence record for persons who 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 (3) years and thereafter will be destroyed by shredding.
- F. The criminal history correspondence of applicants and volunteers with a criminal history who are hired or appointed will become a part of the confidential recruitment and selection file of that employee or volunteer. Access to confidential files is limited to authorized persons who have an official need to access such files as sanctioned by law or regulation.
- G. Applicants offered employment or appointment as a volunteer, who have a felony criminal history or a history of conviction of a misdemeanor involving moral turpitude or theft, will be closely examined by the Chief of Police, who will make the final determination using the city's Employment and Volunteer Screening Policy as the basis for approval or denial. Each selection will be made on an individual, case-by-case basis, taking into account the applicant's qualification, the requirements of the particular job or volunteer post applied for, and the results of the criminal history check. Factors such as the age of the offender at the time of the offense, the type of offense and subsequent rehabilitation, and the public sensitivity of the position under consideration shall be taken into account in the Chief of Police's evaluation of the criminal history report.
- H. Hiring an applicant or appointing a volunteer with a criminal history record, will require the positive recommendation by the Chief of Police and the approval of the City Manager or governing body, after full disclosure and consideration of the criminal history of the applicant.
- I. The Employee and Volunteer Screening Policy will be reviewed and updated in accordance with state and federal law.

Section 3. Savings. If any section, subsection, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this Ordinance; it is hereby expressly declared that every section, subsection, provision, clause or paragraph of this Ordinance enacted, irrespective of the enactment or validity of the portion hereof declared to be unconstitutional or invalid is valid.

Section 4. Severability. Invalidity of a section or part of a section of this Ordinance shall not affect the validity of the remaining section or parts of sections.

Passed by the Lebanon City Council and executed by the Mayor on this 8th day of February, 2017 by a vote of ____ yeas and ____ nays.

CITY OF LEBANON, OREGON

Paul R. Aziz, Mayor	<input type="checkbox"/>
Bob Elliott, Council President	<input type="checkbox"/>

ATTESTED BY:

Linda Kaser, City Clerk



City of Lebanon Employee and Volunteer Screening Policy

DESCRIPTION

In order to preserve the safety and wellbeing of participants in its programs, activities and events as well as youth programs offered by the City of Lebanon ("City"), the City will conduct background checks on all individuals offered employment to work and volunteer in all such programs.

All applicants offered employment or appointed volunteers will be required to complete an application and sign an authorization form which will provide date of birth, Social Security Number or driver's license number, and current address, authorizing the City to order an individual criminal background check. All authorization forms and results of screening must be received prior to the start of work and volunteer duties.

This policy will include all employees and volunteers, regardless of what department they serve.

To the extent provided by OAR 166-200-0090(5) of the State of Oregon Statute, all information received as a result of the screening will be kept confidential and not disclosed to anyone outside the City. All authorization forms, records or reports shall be maintained in a confidential manner, and kept for a fixed period of time as set by the City's record retention policy.

If any disqualifying information is found that prevents an applicant from being accepted, the City will be responsible for notifying applicant of disqualification in a confidential manner. In the event the applicant feels a mistake has been reported in their criminal background check, it is the applicant's responsibility to contact the jurisdiction and resolve any issues. The City and its employees are not responsible for errors or omissions that may be reported on background checks.

FREQUENCY OF BACKGROUND INVESTIGATIONS

The initial authorization release signed by the prospective employee or volunteer applicant specifically states that the release shall remain in effect until revoked in writing. A subsequent background check may be conducted as often as once per year or every five years.

CRITERIA FOR EXCLUSION

Disqualifying Factors

A person will be disqualified and prohibited from serving as an employee or volunteer if the person has been found guilty of any of the following crimes or has pending charges as identified below:

(Guilty means that a person was found guilty following a trial, entered a guilty plea or entered a no contest plea accompanied by a court finding of guilty, regardless of whether there was an adjudication of guilt (conviction) or a withholding of guilt. This recommendation does not apply if criminal charges resulted in acquittal or dismissal.)

DISQUALIFICATION BASED ON OFFENSE:

SEX OFFENSES

All Sex Offenses – Regardless of the amount of time since offense.

Examples include: child molestation, rape, sexual assault, sexual battery, sodomy, prostitution, solicitation, indecent exposure, etc.

FELONIES

All Felony Violence – Regardless of the amount of time since offense.

Examples include: murder, manslaughter, aggravated assault, kidnapping, robbery, aggravated burglary, child endangerment etc.

All Felony offenses other than **violence** or **sex** within the past 10 years.

Examples include: drug offenses, theft, embezzlement, fraud, etc.

MISDEMEANORS

All misdemeanor violence involving a minor, (unless the applicant was themselves a minor) regardless of the amount of time since the offense. All misdemeanor drug & alcohol offenses, involving a minor, (unless the applicant was themselves a minor) regardless of the amount of time since the offense.

All other misdemeanor violence offenses within the past 10 years

Examples include: simple assault, battery, domestic violence, hit and run, etc.

All misdemeanor drug & alcohol offenses within the past 10 years or more than one offense in the past 10 years regardless of whether the offense involved a minor.

Examples include: driving under the influence, simple drug possession, drunk and disorderly, public intoxication, possession of drug paraphernalia, etc.

Any other felony or misdemeanor, within the past 10 years, that would be considered a potential danger to vulnerable populations.

Any felony or misdemeanor convictions for which an individual accepted through plea bargaining or other legal action a lesser plea conviction than that original charge that involved any of the above listed.

Any felony or misdemeanor conviction or pending charges which involve a crime against a member of the vulnerable population or pending charges of felonies or misdemeanors as listed within this procedure.

PENDING CASES

Any applicant offered employment or appointed volunteer, who has been charged with any of the disqualifying offenses, will not be allowed to work or volunteer until disposition of the charge. A serving volunteer or current employee who has been charged with any of the disqualifying offenses will have their service and or employment suspended until disposition of the charge.

An employee or volunteer must immediately inform the City of any charge(s) that has been filed against them which, if convicted, would cause them to be disqualified as an employee or volunteer as stated in this policy. Failure to do so may result in further penalties including permanent disqualification.

The Background Check Process is an ongoing process and is subject to review and changes as deemed necessary by the City of Lebanon.

NOTIFICATION

The results of the criminal background screening will be received by the City of Lebanon's Chief of Police and stored in the Police Department's files. The department or employee who submitted the application on behalf of the applicant offered employment or appointed volunteer will only receive a "Eligible" or "Not Eligible" notification from the Human Resources Office.