

**CITY OF LAWRENCE
APPROVED ORDINANCE
DOC. 132/2014**

Be it ordained, the Lawrence City Council hereby amends the Revised Ordinances for the City of Lawrence by adding a new Chapter to the Municipal Code to be cited as **Chapter 5.80 (Requiring Fingerprint-Based Background Check on Certain License Applicants)** to be placed in proper numerical order as follows:

Chapter 5.80 of the Municipal Code (Requiring Fingerprint-Based Background Check on Certain License Applicants)

Section 5.80.010 Purpose.

To protect the health, safety, and welfare of the inhabitants of the City of Lawrence, and as authorized by MGL c. 6, § 172B1/2, this ordinance requires:

- A. Applicants for certain City licenses permitting the engagement in specific occupational activities within the City of Lawrence as enumerated in **Section 5.08.030** to submit to fingerprinting by the Lawrence Police Department;
- B. The Lawrence Police Department to conduct criminal record background checks based on such fingerprints; and
- C. The City of Lawrence to consider the results of such background checks in determining whether or not to grant a license.

Section 5.80.020 Authorization to conduct fingerprint-based background checks.

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

Section 5.80.030 Applicant's submission to fingerprinting.

- A. Any applicant for a license to engage in any of the following occupational activities within the City of Lawrence shall submit a full set of fingerprints taken by the Lawrence 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 suitability of the applicant for the license:

Manager of alcoholic beverages;

Hawkers and Peddlers;

Transient Vendors;

Solicitors and Door-to-Door Sales Person;

Owner or operator of a public conveyance (taxi or livery service);

Dealer in Second Hand Articles and Old Gold Dealer;

Ice Cream Truck Vendor;

B. At the time of fingerprinting, the Lawrence Police Department shall notify the individual fingerprinted that the fingerprints will be used to check the individual's FBI and other criminal history records.

Section 5.80.040 Processing of fingerprint-based criminal record background checks; communication of results.

- A. The Police Department shall transmit fingerprints it has obtained pursuant to **Section 5.80.030** of this ordinance to the Identification Section of the Massachusetts State Police, DCJIS and/or the FBI as may be necessary for the purpose of conducting fingerprint-based state and national criminal record checks of license applicants specified in **Section 5.80.030**.
- B. An applicant may request in writing and receive a copy of his or her criminal history records from the Police Department. Should an applicant wish to correct or amend the information contained in it, he or she will be directed to the DCJIS for state records and the FBI for national records.
- C. The City of Lawrence Police Department shall communicate the results of the fingerprint-based criminal record background checks to the applicable licensing authority within the City. The Police Department shall indicate whether the applicant has been convicted of, or is awaiting final adjudication for, a crime that bears upon the applicant's suitability, or any felony or misdemeanor involving the use of force or the threatened use of force, controlled substances or a sex-related offense.

Section 5.80.050 Reliance on results of fingerprint-based criminal record background checks.

Licensing authorities of the City of Lawrence shall utilize the results of fingerprint-based criminal history 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 **Section 5.80.030**. A City of Lawrence licensing authority may deny any application for a license on the basis of the results of the fingerprint-based criminal record background check, if the licensing authority, in its sole discretion, 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 the 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 or failed to do so.

Section 5.80.060 Compliance with laws, regulations, and policies.

Implementation of this ordinance and the conducting of fingerprint-based criminal record background checks by the City of Lawrence shall be in accordance with all applicable laws, regulations, and City policies, which shall include record retention and confidentiality requirements. The City of Lawrence shall not disseminate the results of fingerprint-based criminal record background checks except as may be provided by law, regulation, and City policy. The City of Lawrence shall not disseminate criminal record information to unauthorized persons or entities.

Section 5.80.070 Fees.

The fee charged by the Lawrence Police Department for the purpose of conducting fingerprint-based criminal record background checks shall be a total of one hundred dollars (\$100.00). A portion of the fee, as specified in M.G.L. c. 6, § 172B1/2, shall be deposited into the Firearms Fingerprint identity Verification Fund, and the remainder of the fee may be retained by the City of Lawrence for costs associated with the administration of the fingerprinting system.

Further, the City Council hereby adopts the following “Civil Fingerprinting Policy for Municipal Licensing Applicants” by the City of Lawrence, MA for the purpose of conducting state and national criminal history screening of applicants for the above referenced municipal licenses as follows:

City of Lawrence Civil Fingerprinting Policy for Municipal Licensing Applicants

Applicability

This policy is applicable to the civil fingerprinting process for the state and national criminal history screening of applicants for the following municipal licenses:

Manager of alcoholic beverages;

Hawkers and Peddlers;

Transient Vendors;

Solicitors and Door-to-Door Sales Person;

Owner or operator of a public conveyance (taxi or livery service);

Dealer in Second Hand Articles and Old Gold Dealer;

Ice Cream Truck Vendor;

Authority

This policy is promulgated in accordance with 28 CFR 20.33(a)(3), Public Law 92-544, M.G.L. c. 6, § 172B ½ , and Chapter 5.80 of the Municipal Code. The civil fingerprinting process for municipal licensing applicants is also subject to the “Massachusetts Department of Criminal Justice Information Services Policies and Procedures for Civil Fingerprinting for Municipal Licensing Applicants.”

Schedule of Fingerprint Collection

Licensing applicants may appear at the City of Lawrence Police Department, located at 90 Lowell Street, Lawrence, MA, for fingerprint collection on the following days *[to be determined by the Lawrence Police Department]* between the following hours *[to be determined by the Lawrence Police Department]*.

[The Lawrence Police Department will also establish appointments if necessary]

Verification of Identification

Before being fingerprinted, all licensing applicants are required to present government-issued identification. A licensing applicant’s fingerprints will not be collected until his or her identity has been verified. The following forms of identification will be accepted:

- (a). United States Passport
- (b). State Issued Driver’s License

- (c). State Issued Identification Card
- (d). U.S. Military Identification Card

Databases to be Searched

All licensing applicants' fingerprints will be searched against the Automated Fingerprint Identification System (AFIS) fingerprint database which is maintained by the Massachusetts State Police and the Federal Bureau of Investigation's (FBI) Integrated Automated Fingerprint Identification System (IAFIS) fingerprint database.

Consent

All licensing applicants must consent to the collection and submission of their fingerprints for the purposes of conducting state and national criminal history screening by completing the "Civil Fingerprinting Consent Form". Consent forms will be retained for at least one year but for no longer than three years.

Payment of Fingerprinting Fees Fingerprinting fees include federal, state, and local fees. Before being fingerprinted, all licensing applicants must pay the statutory fingerprint fee of thirty dollars (\$30.00) with a money order or bank check payable to the "Commonwealth of Massachusetts." In addition to a signature, the money order or bank check shall include the name of the applicant hand-printed in block letters. In addition to the above State Fee, all applicants must also pay the municipal fingerprint fee of seventy dollars (\$70.00) with the following forms of payment:

[applicable forms of payment to be determined by the Lawrence Police Department]

Storage of Fingerprint-Based State and National Criminal History Information

Fingerprint-based state and national criminal history record information shall not be retained or stored except for the purpose of allowing an applicant the opportunity to challenge the criminal history record. During the challenge stage, the fingerprint-based state and national criminal history record information shall be stored in a secure location and access to the information shall be restricted to authorized personnel.

Handling of Fingerprint-Based State and National Criminal History Information

Fingerprint-based state and national criminal history record information will only be handled and reviewed by authorized personnel in a secure area, out of the view of the public and of all other unauthorized individuals.

Destruction of Fingerprint-Based State and National Criminal History Information

When fingerprint-based state and national criminal history information is no longer needed, it shall be destroyed by the licensing authority by burning, shredding, or other method, rendering the information unreadable.

Correcting Fingerprint-Based State and Nation Criminal History Information

All licensing applicants have the right to challenge the information contained within a fingerprint-based state or national criminal history record response. In order to change, correct, or update criminal history record in question, the licensing applicant must follow the procedures listed below:

If, after reviewing his/her identification record, the subject thereof believes that it is incorrect or incomplete in any respect and wishes changes, corrections or updating of the alleged deficiency, he/she should make application directly to the agency which contributed the questioned information. The subject of a record may also direct his/her challenge as to the accuracy or completeness of any entry on his/her FBI record to the FBI, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D2, 1000 Custer Hollow Road, Clarksburg, WV 26306. The FBI will then forward the challenge to the agency which submitted the data requesting that agency to verify or correct the challenged entry. Upon the receipt of an official communication directly from the agency which contributed the original information, the FBI CJIS Division

will make any changes necessary in accordance with the information supplied by that agency. Each applicant will also be provided with a copy of the "FBI Procedure for Changing, Correcting or Updating a Record."

Said policy being promulgated in accordance with 28 CFR 20.33(a)(3), Public Law 92-544, M.G.L. c. 6, § 172B ½ , and proposed Chapter 5.80 of the Municipal Code. Said civil fingerprinting process for municipal licensing applicants is also subject to the “Massachusetts Department of Criminal Justice Information Services Policies and Procedures for Civil Fingerprinting for Municipal Licensing Applicants.” Said policy, if approved, shall be in conjunction with proposed Chapter 5.80 upon its approval.

An unabridged copy of the proposed ordinance and the proposed policy together with supporting documentation is available for public for examination, viewing and copying at the Office of the City Clerk, 200 Common Street, Lawrence, MA any business day between the hours of 8:30 a.m. to 4:30 p.m. and may be viewed on the City Website . Information and copies of the proposed ordinance and proposed policy may also be viewed on the City of Lawrence Website at www.cityoflawrence.com/.

Attest: William J. Maloney, City Clerk

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