



ORDINANCE 2010-008

AN ORDINANCE ESTABLISHING PROVISIONS FOR THE CITY OF SHERWOOD TO CONDUCT OR AUTHORIZE CRIMINAL BACKGROUND INQUIRIES OF NON-POLICE APPLICANTS FOR EMPLOYMENT AND VOLUNTEER POSITIONS

WHEREAS, ORS 181.555 and the Oregon Administrative Rule 257-010-0025 establish the procedures for access to criminal conviction record information possessed by the Oregon State Police Department through the Law Enforcement Data System (LEDS), and;

WHEREAS, ORS 181.555 authorizes access to criminal offender information by criminal justice agencies and ORS 181.555(2) authorizes access to criminal offender information by other state and local agencies, and;

WHEREAS, OAR 257-101-0025(a) permits a Criminal Justice Agency access to Oregon State Police criminal offender information where such information is required to implement a local ordinance, and;

WHEREAS, the City of Sherwood is presently required to conduct criminal history records inquiries for prospective police officers and the Sherwood City Council desires to expand the authority to use criminal offender information as a measure of suitability of applicants for employment and volunteer positions so as to preserve the public safety and confidence in the City's employees and programs.

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

Section 1. Purpose.

The purpose of this ordinance is to authorize the City of Sherwood Police Department to access Oregon State Police criminal offender information through the employment inquiry provision of the Law Enforcement Data System (LEDS) for applicants seeking to gain employment and / or to volunteer for public service with the City of Sherwood.

Section 2. Procedure.

The City shall follow the procedure set forth.

1. An offer of employment to all potential new City employees or appointment of volunteers shall be conditioned on the prior written consent to a check of the applicant's or volunteer's criminal offender information, if any, as shown in the records maintained in the Oregon State Police (OSP) LEDS system. The written consent form will contain written notice to the applicant that a criminal offender record check may be made through OSP. The consent form will be signed by the applicant agreeing that the Police Department may make a criminal offender record check through the OSP and provide the City of Sherwood Human Resources Department with confirmation as to whether the applicant is disqualified from employment based on a predetermined list of convictions. The consent form shall include: 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; 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 inform the individual they may obtain further information by contacting the Bureau of Labor and Industries.
2. The criminal history authorization form will be maintained by the Human Resource Department who will initiate request.
3. The City of Sherwood Police Department will conduct the check on the prospective employee or volunteer and will report to the Human Resource Department whether the record indicates a disqualifying conviction.
4. If the applicant's or volunteer's record is reported as "disqualifying", the Sherwood Police Department will, in accordance with OAR 257-010-0025, request a written criminal history report from the Oregon State Police Identification Services Section.
5. The written criminal history record of persons that are determined to be "disqualified," whether or not hired, or appointed as volunteers, will be retained in accordance with the Oregon Administrative Rules 166-300-0040(5) record retention requirements and thereafter will be destroyed.
6. An applicant or volunteer who is disqualified from employment or appointment with the City based on the applicant's criminal offender history, shall be informed of the basis of the 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, must state with particularity the grounds for the appeal and must be received by the City no later than seven (7) calendar days from the date of notice to applicant of disqualification to be considered.
7. Each full time, part time, or volunteer position may have individual applicable conviction criteria for disqualification from appointment. The criteria will be dependent on legal, regulatory, bonding, or certification requirements of a particular job or volunteer post; the vulnerability of people serviced by the position; the level of integrity required for public confidence; and the protection of City assets.
8. Hiring an applicant or appointing a volunteer with a disqualifying criminal history record will require approval of the selecting Department Head and the approval of the City Manager. Nothing in this ordinance shall prevent the City of Sherwood from denying an

employment or volunteer application on a basis other than the criminal history, or lack of such history, of the applicant.

Section 4. Severability.

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

Section 5. Effective Date.

This Ordinance shall become effective 30 days from its adoption.

Duly passed by the City Council May 18, 2010.



Keith S. Mays, Mayor

ATTEST:



Sylvia Murphy, CMC, City Recorder

	<u>AYE</u>	<u>NAY</u>
Folsom	<u>✓</u>	_____
Clark	<u>✓</u>	_____
Weislogel	<u>✓</u>	_____
Henderson	<u>✓</u>	_____
Grant	<u>✓</u>	_____
Heironimus	<u>✓</u>	_____
Mays	<u>✓</u>	_____