

ORDINANCE NO. 1178

AN ORDINANCE ESTABLISHING POLICY FOR CRIMINAL HISTORY RECORDS CHECKS

RECITALS:

- A. All City of Prineville employees represent the City to its citizens. Many employees have responsibilities to regulate and maintain public health, safety, and welfare; and some City employees have the ability and authority to bind the City contractually, have access to public funds, property and privileged and proprietary information submitted to the City in confidence. Therefore, persons selected for employment or as City volunteers must have the highest degree of public trust and confidence.
- B. There is a need to protect youths from harmful or dangerous encounters. To that end the ability of organizations to review criminal records of those who volunteer or are employed to work with youth through non-profit organizations or special districts in the City is necessary and appropriate.
- C. Employees and volunteers for Crook County Fire & Rescue interact with the public in stressful situations in which members of the public can be taken advantage of. Therefore, it is necessary and appropriate that Crook County Fire & Rescue have the ability to review criminal record history of its volunteers and potential employees.
- D. The City Council finds it in the City's best interest to have the City Police Department complete criminal and driving history records checks for finalists for positions in all departments at the City, for City volunteers, for volunteers and employees of non-profit youth organizations or special districts that work with youths within the City and for volunteers and employees of Crook County Fire & Rescue.
- E. ORS 181.555 and OAR 257-010-0025 establish procedures for local criminal justice agencies to access Oregon criminal record information possessed by the Oregon State Police ("OSP") through the Law Enforcement Data System ("LEDs") to obtain criminal offender information when the information is used for the administration of a local ordinance or administrative rules that refers to criminal conduct and contains the requirements or exclusions expressly based on such conduct, or other demonstrated and legitimate needs.
- F. The Prineville City Council finds that it is in the public interest to access OSP criminal offender information through LEDs on applicants for City employment and City volunteers, and

those individuals described in Recitals B and C above (those individuals described in Recitals B and C are hereafter referred to as "other employees").

NOW, THEREFORE, based on the above findings, the City of Prineville ordains as follows:

1. All applicants for employment and appointed volunteers with the City will be required to authorize in writing for the City to conduct an Oregon only criminal offender information check through the OSP LED systems.

2. Non-profit organizations or special districts may request that the Police Department perform Oregon only criminal history checks on other employees. Subject to workload priorities and staff availability, the Police Department may perform such criminal record checks on other employees so long as such other employees have signed a written authorization for the City to conduct such criminal history check. Any costs of such records checks shall be borne by the organization requesting the records check. The Police Department shall confirm with the non-profit organization or special district only if a criminal record exists, without any detail of such record. The non-profit organization or special district may request criminal record history directly from the Oregon State Police pursuant to state statute and administrative rule.

3. A member of the Police Department trained and authorized to perform criminal history checks through LEDS will conduct the Oregon only check on the prospective City employee or City volunteer and orally report to the City's Human Resources Department that the applicant's records indicate "no criminal record" or "criminal record." If the applicants record is reported as "criminal record" the City may, under OAR 257-010-0025, request a written criminal history report from the OSP Identification Services Section.

4. The City's Human Resources Department will make the written criminal history available to the appropriate City official for his or her consideration in making the selection.

5. The written criminal history record on persons that are not hired or selected as a volunteer for the City will be retained in accordance with the requirements of OAR 166-200-0090 for a period of three years and thereafter will be destroyed. The criminal history record of applicants and volunteers with a criminal history that are hired or selected as volunteers will become a part of the personnel files of that employee or volunteer and released according to the law.

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

Passed the _____ day of February, 2011.

Betty J. Roppe, Mayor

ATTEST:

Lisa Morgan, City Recorder