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MEMORANDUM

DATE: AUGUST 13, 2015

TO: MAYOR AND CITY COUNCIL

THRU: MARSHA REED, ACTING CITY MANAGER *MR*

FROM: DEBRA STAPLETON, HUMAN RESOURCES DIRECTOR *DRAS*

SUBJECT: INTRODUCTION AND TENTATIVE ADOPTION OF ORDINANCE NO. 4623 REPEALING ORDINANCE NO. 2334 AND AUTHORIZING THE CITY TO REQUIRE FINGERPRINT IDENTIFICATION AND RECEIVE CRIMINAL HISTORY RECORD INFORMATION FOR PROSPECTIVE AND CURRENT EMPLOYEES, VOLUNTEERS, LICENSEES, AND PERMITTEES

RECOMMENDATION:

Introduction and tentative adoption of Ordinance No. 4623 repealing Ordinance No. 2334 and authorizing the City to require fingerprint identification and receive criminal history record information for prospective and current employees, volunteers, licensees, and permittees.

BACKGROUND:

On January 28, 1993, the City Council adopted Ordinance 2334. Since that ordinance was enacted more than 20 years ago, the internal and external procedures for obtaining criminal background information have changed. The Arizona Department of Public Safety (DPS) has very specific requirements and guidelines for accessing criminal history record information when such information is being used for a noncriminal purpose.

In addition, the 1993 ordinance requires all new hires and temporary employees, as well as certain volunteers, to be fingerprinted prior to working at the City. This includes seasonal recreational staff who are under 18 years of age whose criminal records are sealed and unavailable through the fingerprinting process. Requiring fingerprints for those employees results in an unnecessary expense for the City.

DISCUSSION:

Arizona Revised Statutes §41-1750 authorizes the Arizona DPS to share state and federal criminal justice information and criminal history record information with noncriminal justice agencies, such as the City, when the noncriminal justice agency is authorized by a statute, ordinance, or executive order to receive the information for the purpose of "evaluating the fitness of current or prospective licensees, employees, contract employees or volunteers".

Ordinance 4623 provides that criminal history record information for applicants under the age of 18, existing employees, temporary workers, employees returning after a break in service, and volunteers shall be required *only* if the City Manager, or designee, determines there is a significant risk associated with the position to be filled or the nature of the work to be performed.

Additionally, this ordinance expands the authority to obtain criminal history record information to include existing employees and volunteers. It also provides the City with greater discretion to determine when such information will be required for certain categories of employees, volunteers, and workers. The ordinance allows the City Manager to delegate responsibility for administering the criminal history record information process to the Directors (and staff) who are appropriately authorized and trained in its use. For example, Human Resources has been designated by the Arizona DPS as an authorized receiving agency, has a designated Agency Security Contact, and its authorized personnel have received mandatory privacy and security training. Human Resources staff is also well-versed in the legal considerations affecting the use of criminal history records.

The provision on criminal background checks on prospective licensees and permittees similarly allows the City Manager to designate an appropriate Director (and staff) to administer the program.

PROPOSED MOTION:

Move to introduce and tentatively adopt Ordinance No. 4623 repealing Ordinance No. 2334 and authorizing the City to require fingerprint identification and receive criminal history record information for prospective and current employees, volunteers, licensees, and permittees.

Attachment: Ordinance No. 4623

ORDINANCE NO. 4623

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, REPEALING ORDINANCE NO. 2334 AND AUTHORIZING THE CITY TO REQUIRE FINGERPRINT IDENTIFICATION AND RECEIVE CRIMINAL HISTORY RECORD INFORMATION FOR PROSPECTIVE AND CURRENT EMPLOYEES, VOLUNTEERS, LICENSEES, AND PERMITTEES.

WHEREAS, Section 902 of Public Law 92-184 authorizes the Federal Bureau of Investigation to make criminal history record information available to state and local governments for use in connection with licensing or employment; and

WHEREAS, the Arizona Department of Public Safety, as the central state repository, is the agency responsible for collecting, maintaining, and disseminating criminal history records in Arizona; and

WHEREAS, A.R.S. § 41-1750 authorizes the Arizona Department of Public Safety to provide state and federal criminal history record information to non-criminal justice agencies for the purpose of evaluating the fitness of current or prospective licensees, employees, contract employees, and volunteers provided that such agency's receipt of the information is authorized by statute, ordinance, or executive order and the request for the information is accompanied by fingerprints and appropriate fees; and

WHEREAS, the City Council adopted Ordinance No. 2334 on January 28, 1993, to provide the necessary authorization for the City, as a non-criminal justice agency, to obtain fingerprints and criminal history record information for prospective employees and licensees; and

WHEREAS, changes are required to reflect changes in the laws and procedures that have taken place since Ordinance No. 2334 was adopted in 1993.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Chandler, Arizona as follows:

SECTION 1: Ordinance No. 2334, adopted on January 28, 1993, is hereby repealed in its entirety as of May 15, 2015, and is replaced by the following:

1. *Prospective and Current Employees, Temporary Workers, and Volunteers.* The City Manager, or designee, is hereby authorized to require fingerprint identification from prospective and current employees, temporary workers, and volunteers and to forward such fingerprints with appropriate fees to the Arizona Department of Public Safety in order to obtain state and federal criminal history record information on such applicants for the sole purpose of evaluating their fitness for employment by the City of Chandler. Criminal history record information for applicants under the age of 18, existing employees, temporary workers, employees returning after a break in service, and volunteers shall be required only if the City Manager, or designee, determines there is a significant risk associated with the position to be filled or the nature of the work to be performed.

2. *Licenses and Permits.* The City Manager, or designee, is hereby authorized to require fingerprint identification and appropriate fees from each applicant for a City of Chandler license or permit identified in this section and to forward such fingerprints with the appropriate fees to the Arizona Department of Public Safety for the purpose of obtaining state and national criminal history information on such applicant. Such information shall be used solely for the purpose of evaluating the fitness of the applicants for the following types of licenses and permits for the City of Chandler:

- | | |
|-----------------------|----------------------------|
| Auctioneer | Sexually oriented business |
| Auction house | Escort |
| Junk dealer | Peddler |
| Massage establishment | Canvasser |
| Pawn broker | Transient Merchant |
| Antique dealer | Solicitor |
| Second-hand dealer | |

3. *Other Purposes Required By Law.* The City Manager, or designee, is authorized to receive and consider criminal history record information for other noncriminal justice purposes only as required by federal, state, or local law.

4. The City Manager, or designee, shall maintain standard procedures to comply with all state and federal statutes, regulations, and requirements that may relate to the use, dissemination, safeguarding, and destruction of the criminal history record information obtained pursuant to this Ordinance.

SECTION 2: This Ordinance shall become effective on October 21, 2015.

INTRODUCED AND TENTATIVELY APPROVED by the City Council of the City of Chandler, Arizona, this _____ day of _____, 2015.

ATTEST:

CITY CLERK

MAYOR

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona this _____ day
of _____, 2015.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. _____ was duly passed and
adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the
_____ day of _____, 2015, and that a quorum was present thereat.

CITY CLERK

Approved as to form:

CITY ATTORNEY *red*

Published: