

**CITY OF NEWPORT**

**RESOLUTION NO. 3826**

**A RESOLUTION OF THE CITY OF NEWPORT  
REPEALING AND REPLACING RESOLUTION NO. 3824  
AUTHORIZING THE NEWPORT POLICE DEPARTMENT  
TO CHECK CRIMINAL INFORMATION RECORDS  
OF THE STATE OF OREGON LAW ENFORCEMENT DATA SYSTEM**

**WHEREAS**, ORS 181A.230 and OAR 257-010-0025 establish procedures for access to criminal record information possessed by the Oregon State Police (OSP) through the Law Enforcement Data System (LEDS); and

**WHEREAS**, ORS 181A.230 (1) provides access to criminal offender information by criminal justice agencies and by other state and local agencies; and

**WHEREAS**, ORS 181A.230 (1) (a) permits a criminal justice agency access to OSP criminal offender information required to implement a local ordinance; and

**WHEREAS**, the City Council of the City of Newport determines it is in the public interest to access OSP criminal offender information through the LEDS system for all applicant finalists for employment and volunteer positions with the City of Newport, and for applicants for permits or licenses issued by the City; and

**WHEREAS**, the City Council of the City of Newport adopted Resolution No. 3824, on September 4, 2018, and it was subsequently determined that changes to that resolution were necessary to comply with requirements of the Oregon Law Enforcement Data System; and

**WHEREAS**, Resolution No. 3826 repeals and replaces Resolution No. 3824 in its entirety, and complies with the requirements of the Oregon Law Enforcement Data System.

**THE CITY OF NEWPORT RESOLVES AS FOLLOWS:**

**Section 1. Purpose**

The purpose of this resolution is to authorize the City of Newport Police Department to access Oregon State Police (OSP) criminal offender information through the Law Enforcement Data System (LEDS) and Oregon Department of Motor Vehicle (DMV) records, to check the records of persons applying for City of Newport employment or volunteer opportunities; persons applying to volunteer with non-profit youth organizations operating within the City of Newport; persons applying for a license to operate a taxicab or taxicab business in Newport; applicants seeking City of Newport approval of licenses

or renewal licenses of the Oregon Liquor Control Commission; persons applying for license to operate medicinal and recreational marijuana business license applicants and their employees; and for other purposes authorized by law.

## **Section 2. Criminal Offender Information Records Procedure**

- A. Requests for Criminal offender information records shall be conducted in accordance with the procedures provided herein and ORS Chapter 181A, specifically ORS 181A.230, and administrative rules promulgated by OSP including OAR 257-10-0025 to 257-10-0050, all of which establish procedures for access to OSP criminal record information through LEDS.
- B. Any person subjected to a criminal offender information record check under the provisions of this ordinance will be required to authorize the City to conduct a criminal offender information check through the OSP LEDS, as part of the application process. If the person does not consent for the City of Newport to make a criminal offender record check, their application will be denied. Notice required under this section shall be provided prior to the time the request is made and include:
  - 1. Notice of the manner in which the individual may be informed of the procedures adopted under ORS 181A.230 for challenging inaccurate criminal offender information; and
  - 2. 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 that the individual may obtain further information by contacting the Bureau of Labor and Industries.
- C. The Human Resource Department of the City of Newport is responsible for maintaining any signed consents by persons applying for employment or volunteer positions, authorizing the City of Newport to conduct a criminal offender information check through LEDS, and requesting that a criminal history check be made.
- D. The City Recorder of the City of Newport is responsible for maintaining any signed consents for the city to conduct a criminal offender information check through LEDS or DMV records by persons applying for Taxi Driver's Permits, Certificates of Convenience and Necessity, and for licenses or license renewals issued by Oregon Liquor Control Commission, as well as applicants for licenses to establish medicinal or recreational marijuana businesses, and requesting that such checks be made.
- E. The City of Newport Police Department is responsible for conducting the records check and responding to the request as authorized or directed by law. A member of the Police Department trained and authorized to perform criminal history checks through the LEDS system will conduct the check on the applicant and orally report to the Human Resources Department that the applicant has either a "criminal record" or "no criminal record". The Police Chief may also make a recommendation to the City



concerning the suitability of the applicant to the applied position, or whether they meet the City's hiring or licensing criteria. The Police Department shall retain all records related to confidential criminal offender information obtained in the process of checking records in response to a request, in accordance with archiving retention rules.

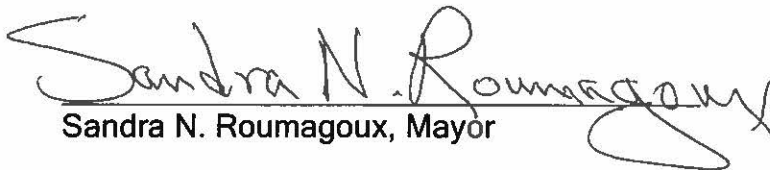
- F. In no case shall the Police Department share any information concerning any applicant's criminal history information with any member of city staff. If the City requires a copy of the applicant's criminal history they may request a copy per ORS 181A.245 - Open Records Requests. The appropriate city staff shall then review the Police Department's response, and may review the record returned under the Open Records request. The review and determination shall be made on an individual, case by case basis, taking into account the person's qualifications, the requirements of the employment or volunteer position, and the results of the criminal offender information check. Factors such as, and the public sensitivity or nature of the position under consideration shall be taken into account in evaluating a criminal offender information report for purposes of employment or appointment.

**Section 3.** This Resolution No. 3826 repeals and replaces Resolution No. 3824.

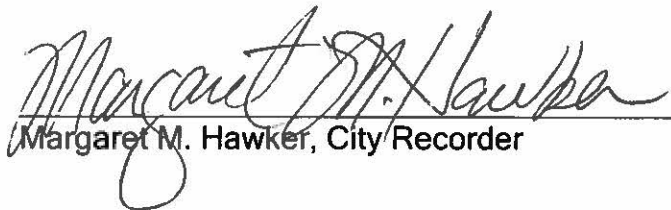
**Section 4. Effective Date**

This resolution shall take effect immediately upon the date of its adoption.

Signed by the Mayor of the City of Newport, Oregon on September 18, 2018.

  
Sandra N. Roumagoux, Mayor

ATTEST:

  
Margaret M. Hawker, City Recorder