

**RESOLUTION NO. 2008-27**

**A RESOLUTION AUTHORIZING THE GARIBALDI POLICE DEPARTMENT TO CHECK CRIMINAL INFORMATION RECORDS OF THE STATE OF OREGON LAW ENFORCEMENT DATA SYSTEM.**

**WHEREAS**, the City Council of the City of Garibaldi determines it is in the public interest that the Garibaldi Police Department be responsible for performing and completing a review of criminal information records as allowed by law, including but not limited to the records of applicant finalists for employment, volunteer positions in all City of Garibaldi departments and for certain licensees, and

**WHEREAS**, regulations adopted by the Oregon State Police (OSP) pursuant to ORS 181.555 require the City of Garibaldi to authorize the Garibaldi Police Department to use the Oregon Law Enforcement Data System (LEDS) and other state information system files, motor vehicle departments, NCIC, Oregon State Police Identification Services Section, etc. and to establish related procedures; and

**WHEREAS**, the City Council, pursuant to GMC 2.25.100, has elected to have the police functions of the City of Garibaldi performed by the Office of the Sheriff of Tillamook County; NOW THEREFORE,

**THE COMMON COUNCIL OF THE CITY OF GARIBALDI RESOLVES AS FOLLOWS:**

**Section 1. Purpose**

The purpose of this resolution is to authorize the City of Garibaldi Police Department to access Oregon State Police (OSP) criminal offender information through the Law Enforcement Data System (LEDS) including Oregon Department of Motor Vehicle (DMV) records for purposes including checking records of persons applying for City of Garibaldi employment or volunteer opportunities, persons applying to volunteer with non-profit youth organizations operating within the City of Garibaldi, persons applying for a license to operate a taxicab, taxicab business, or social gaming table in Garibaldi; applicants seeking City of Garibaldi approval of licenses or renewal licenses of the Oregon Liquor Control Commission; 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 181, and specifically ORS 181.555 and 181.557, and administrative rules promulgated by the Oregon State Police including OAR 257-10-025 to 257-10-050, 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. If the person does not consent for the City of Garibaldi to make a criminal offender record check, but such a check is nevertheless required, the City shall provide the person written notice that a criminal offender record check may be made. 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 181.555(3) 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 City Recorder is responsible for maintaining any signed consents by persons applying for employment or volunteer positions, authorizing the City of Garibaldi to conduct a criminal offender information check through LEDS, and requesting that a criminal offender history check be made. In addition, the Recorder shall maintain a copy of any notices provided by the City where consent is not granted but where a check is required.

D. The City Recorder of the City of Garibaldi 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, Social Gaming Permits, Certificates of Convenience and Necessity, and for licenses or license renewals issued by Oregon Liquor Control Commission, authorizing the City of Garibaldi to conduct a DMV records check and/or a criminal offender information check through LEDS, and requesting that such checks be made. In addition, the department shall maintain a copy of any notices provided by the City where consent is not granted but where a check is required.

E. Review

1. The City of Garibaldi Police Department is responsible for conducting records checks and responding to the request as authorized or directed by law. 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.

2. The Police Department shall review the application and criminal offender information of any person applying for City of Garibaldi police department employment or appointment as a volunteer who has a history of arrests or conviction for a felony or misdemeanor, including but not limited to any misdemeanor or other offense which involves criminal sexual conduct or a violation of the Uniform Controlled Substances Act.

3. For all requests related to city licensing such as applications for a taxi license, social gaming table, liquor license, or other license required to be approved by the city, the Police Department shall respond to the request to check criminal offender information by summarizing the criminal offender information. With the exception of the Police Department, staff shall not have access to, or view, any records containing criminal offender information obtained or retained by the Police Department.

4. The review and determination of any applicant 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 the age of the offender at the time of the crime or offense, the type of crime or offense and subsequent rehabilitation, and the public sensitivity or nature of the position under consideration shall be taken into account in evaluating a criminal offender information report or response to a request for such information for purposes of employment, appointment, or licensing.

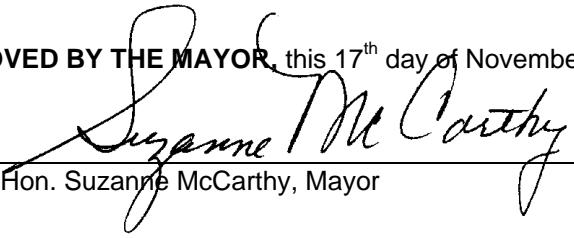
**Section 3. Savings Clause**

The provisions of this resolution are severable, and a determination by a court of competent jurisdiction that any provision is unconstitutional or otherwise invalid shall have the effect of severing such provision declared unconstitutional or otherwise invalid; however, any such determination shall not affect the remaining provisions, which shall continue to be in full force and have all legal effect.

**Section 4. Effective Date**

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

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR, this 17<sup>th</sup> day of November, 2008.

  
\_\_\_\_\_  
Hon. Suzanne McCarthy, Mayor

ATTEST:

  
\_\_\_\_\_  
Kevin M. Greenwood, Administrator