**Criminal History Background Checks for Employment and License Applicants, LMC Model Policy**

*League models are thoughtfully developed by our staff for a city’s consideration. Models should be customized as appropriate for an individual city’s circumstances in consultation with the city’s attorney. Helpful background information on this model may be found in [“Background Checks: The ABCs of BCA Data.”](https://www.lmc.org/resources/background-checks-the-abcs-of-bca-data/)*

**This icon marks places where the city must customize the model. They offer additional provisions, optional language, or comments for your consideration. The icon, and language you do not wish to include, should be deleted from this model before use. Make other changes, as needed, to customize the model for your city.**

**City of** **\_\_\_\_\_\_\_, Minnesota**

**Criminal History Background Checks Policy for Employment and License Applicants**

**PURPOSE**

The purpose of this policy is to provide guidance to the city’s police department when accessing Minnesota’s criminal history information database for purposes of employment and licensing background checks under Minn. Stat. § 299C.72.

**APPLICANTS FOR EMPLOYMENT**

Consistent with the provisions of Minn. Stat. § 299C.72, the \_\_\_\_\_\_\_Police Department will conduct a criminal history background investigation on the applicants for the following positions within the city, unless the city’s hiring authority concludes that a background investigation is not needed:

Employment positions:

*Option 1: List the positions that will be subject to the criminal records check individually.*

*Option 2: Include a phrase such as “all regular part-time or full-time employees of the City of* \_\_\_\_\_\_\_ *and other volunteer positions that work with children or vulnerable adults.”* *(Note: Listing the licenses or applicants subject to the background checks is not required by Minnesota law; however, it is a good practice that will help the city make sure all applicants are treated consistently. In addition, the BCA will be looking for the licenses listed in the ordinance and for the applicants listed in the policy during an audit to determine that a criminal history query was run appropriately).*

*The policy does not need to include sworn police positions as these background checks are already authorized and covered by Minn. Stat. § 626.87, subd. 1.*

*The city will not obtain all of the criminal data authorized under the Minnesota Child, Elder and Individuals with Disabilities Protection Background Check Act (Minn. Stat. § 299C.61 & 62) on positions working with children, the elderly or individuals with disabilities by using the city’s police department to conduct background checks—the city must access those additional records by using the service provided by the Bureau of Criminal Apprehension and paying the associated fee—for more information contact the BCA or the League of Minnesota Cities.*

 *This policy does not permit drivers’ license checks through the Police Department, pursuant to the BCA’s limitation of Minnesota Driver and Vehicle Services (DVS) data on driving records to be accessed for law enforcement purposes only. Therefore, access to DVS data through BCA systems for employment or licensing is prohibited. The DVS is the best source for information on driving records of Minnesota residents.*

In conducting the criminal history background investigation in order to screen employment applicants, the Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehension’s criminal history information data base in accordance with Minn. Stat. §299C.72. Results of the criminal history data may be released by the Police Department to the hiring authority, including the City Council, the city \_\_\_\_\_\_\_ *(e.g., city administrator/manager/clerk),* or other city staff involved in the hiring process. For firefighter background checks, the results must be returned directly to the fire chief for review per Minn. Stat. 299F.035, subd 2(b). All criminal history data must be maintained securely and consistent with section Minn. Stat. §364.05.

Before the investigation is undertaken, the applicant must authorize the Police Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of Minn. Stat. Ch. 13 regarding the collection, maintenance, and use of the information. Except for the positions set forth in Minn. Stat. § 364.09, the city will not reject an applicant for employment on the basis of the applicant’s prior conviction unless the crime is directly related to the position of employment sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the city rejects the applicant's request on this basis, the city shall notify the applicant in writing of the following:

1. The grounds and reasons for the denial.
2. The applicant complaint and grievance procedure set forth in Minn. Stat. § 364.06.
3. The earliest date the applicant may reapply for employment.
4. That all competent evidence of rehabilitation will be considered upon reapplication.

**Applicants for City Licenses**

Consistent with the authority provided in Minn. Stat. Sec. 299C.72, the \_\_\_\_\_\_\_Police Department will conduct a criminal history background investigation on the applicants for the following licenses within the city (Note: authority to conduct retail liquor license background checks is found in Minn. Stat. 340A. 402).

City licenses: *(e.g. massage license, employees of liquor establishments; peddler licenses, etc.) Note that a BCA auditor will ask for the ordinance that requires licensure for each of these.*

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In conducting the criminal history background investigation in order to screen license applicants, the Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehension’s criminal history information systems data base in accordance with Minn. Stat. §299C.72. Any data that is accessed and acquired shall be maintained securely and consistently with Minn. Stat. §364.05 by the Police Department, or the hiring or licensing authority of the city. The results of the criminal history data may be released by the Police Department to the licensing authority, including the City Council, the city \_\_\_\_\_\_\_ *(e.g., city administrator/manager/clerk),* or other city staff involved in the license approval process.

Before the investigation is undertaken, the applicant must authorize the Police Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of Minn. Stat. Ch. 13 regarding the collection, maintenance, and use of the information. Except for the positions set forth in Minn. Stat. § 364.09, the city will not reject an applicant for a license on the basis of the applicant’s prior conviction unless the crime is directly related to the license sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the city rejects the applicant’s request on this basis, the city shall notify the applicant in writing of the following:

1. The grounds and reasons for the denial.
2. The applicant complaint and grievance procedure set forth in Minn. Stat. § 364.06.
3. The earliest date the applicant may reapply for the license.
4. That all competent evidence of rehabilitation will be considered upon reapplication.

Effective date: This policy shall take effect upon \_\_\_\_\_\_\_.