

ORDINANCE NO. 2009-11

AN ORDINANCE AMENDING CITY CODE §205.035
AND ADDING §700.040 TO THE CITY CODE
REGARDING BACKGROUND INVESTIGATIONS

The City of Minnetonka Ordains:

Section 1. City code section 205.035 is amended as follows:

205.035. Background Investigations.

1. Authority to Conduct. At the request of the city manager or designee, the police department must do 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; provide certain criminal history data contained in the Minnesota criminal justice information system. The data to be provided must only be about finalists for regular and part-time city positions of employment and for other city positions of employment or independent contractor status that have:

- 1a. direct access to, or management of, public funds;
- 2b. substantial contact with juveniles in a setting where adults are not present;
- 3c. the task of entering private property on a regular basis; or
- 4d. supervisory responsibilities.

In conducting the criminal history background investigation, the police department is authorized to access data maintained in the state of Minnesota's computerized criminal history information system in accordance with state policy. Any data that is accessed and acquired must be maintained at the police department under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the computerized criminal history data may be released by the police department to the appointing authority and other city staff involved in the hiring process.

2. Procedures. The city manager or designee may not request information about potential firefighting personnel, who are governed by different procedures under state law. The city manager or designee must obtain the consent of the finalists before requesting the data, but an applicant's failure to provide consent may disqualify the applicant from the prospective position. The written consent must fully comply with the provisions of state law regarding the collection, maintenance and use of the information. The city may reject an applicant for employment on the basis of the applicant's prior

The ~~stricken~~ language is deleted; the underlined language is inserted.

criminal conviction only if the city complies with the provisions of Minnesota Statutes chapter 364.

Section 2. The city code is amended by the addition of a new section 700.040 to read as follows:

700.040. Background Investigations.

1. Authority to Conduct. At the request of the city manager or designee, the police department must do a criminal history background investigation on the applicants for the following licenses:

- a. liquor, including managers of the establishment;
- b. charitable gambling, when the licensee will operate in the city;
- c. pawnbroker and precious metal dealer;
- d. sexually oriented business;
- e. peddler and solicitor; and
- f. massage business, including managers of the business.

In conducting the criminal history background investigation, the police department is authorized to access data maintained in the state of Minnesota's computerized criminal history information system in accordance with state policy. Any data that is accessed and acquired must be maintained at the police department under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the computerized criminal history data may be released by the police department to the licensing authority, including the city council and city staff involved in the licensing process.

2. Procedures. The city manager or designee must obtain the consent of the applicants before requesting the data, but an applicant's failure to provide consent may disqualify the applicant from the license. The written consent must fully comply with the provisions of state law regarding the collection, maintenance and use of the information. The city may reject an applicant for a license, or deny the ability of a state licensed charitable gambling organization to operate in the city, on the basis of the applicant's prior criminal conviction only if the city complies with the provisions of Minnesota Statutes chapter 364.

Section 3. A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 4. This ordinance is effective 30 days after publication.

Adopted by the city council of the City of Minnetonka, Minnesota, on September 14, 2009.

Terry Schneider, Mayor

ATTEST:

David E. Maeda, City Clerk

ACTION ON THIS ORDINANCE:

Date of introduction: August 3, 2009

Date of adoption: September 14, 2009

Motion for adoption: Allendorf

Seconded by: Wagner

Voted in favor of: Allendorf, Ellingson, Greves, Hiller, Schneider, Wagner, Wiersum

Voted against:

Abstained:

Absent:

Ordinance adopted.

Date of publication:

CERTIFIED COPY:

I certify that the foregoing is a correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on September 14, 2009.

David E. Maeda, City Clerk