

POLICY

State and National Criminal History Record Checks of Applicants for Licenses in Specified Occupations

1. POLICY STATEMENT AND AUTHORITY

It is the goal of the Board of Selectmen in coordination with the Chief of Police, to ensure the safety of its citizens and to regulate the use of such licenses to ensure they are used responsibly and that activities are conducted lawfully and that such licensing activities do not detract from the quality of life in neighborhoods or in the Town as a whole. The Regulations contained herein have been promulgated to achieve the above stated safety goals and objectives pursuant to the Town's adoption of the Civil Fingerprinting for Certain License Applicants Bylaw ("Bylaw") consistent with the authorizing statute, G.L. c. 6, §172B ½, 28 CFR 20.33(a)(3 and Public Law 92-544. The civil fingerprinting process for municipal licensing applicants is also subject to the "Massachusetts Department of Criminal Justice Information Services Policies and Procedures for Civil Fingerprinting for Municipal Licensing Applicants."

2. APPLICABLE LICENSES

Pursuant to the Bylaw under the authorizing statute, G.L. c. 6, §172B ½, applicants for the following licenses shall submit fingerprints to the Town of Swampscott Police Department for the Police Department to be able to conduct a state and national fingerprint-based criminal history check:

- a. Hawkers and Peddlers;
- b. Door-to-Door Sales;
- c. Pawn Brokers;
- d. Dealers of Second Hand Articles;
- e. Ice Cream Vendors;
- f. Taxi and Livery Licenses; and
- g. Any license to sell alcoholic beverages.

Pursuant to this Section, any and all applicants for a license to sell alcoholic beverages must also provide the fingerprints of their "responsible manager" to the Police Department for processing of a state and national fingerprint-based criminal history check.

3. SUBMISSION OF FINGERPRINTS

- a. All applicants required under Section 2 of this Regulation to submit fingerprints prior to action on their license application must submit fingerprints to the Police Department within 7 days of the submittal of their license application to the Licensing Authority.
- b. Before being fingerprinted, all licensing applicants are required to present government-issued identification for verification. A licensing applicant's fingerprints will not be collected until his or her identity has been verified. The following forms of identification will be accepted:
 - Driver's License
 - Passport
 - Massachusetts Registry of Motor Vehicles Identification Card
- c. All licensing applicants must consent to the collection and submission of their fingerprints for the purposes of conducting state and national criminal history screening by completing the "Civil

Fingerprinting Consent Form.” Consent forms will be retained for at least one year but for no longer than three years. See attached Addendum A.

- d. Applicants will only be fingerprinted by the Shift Commander or his/her designee on Monday through Friday between the hours of 8:00 a.m. and 3:00 p.m. At the time of the fingerprinting, the applicant shall be notified that the fingerprints will be used to check the applicant’s criminal history records. Fingerprint cards will be provided by the Department for each person being fingerprinted. The fingerprint card shall contain “License” in the “Reason Fingerprinted” block of the fingerprint card.
- e. An application shall be considered "complete" and therefore accepted by the Licensing Authority when all forms required have been fully completed and the necessary fingerprints have been submitted to the Police Department. The Licensing Authority shall not process or review a license application until it receives information from the Police Department relative to the criminal history check, as authorized.
- f. Results of the fingerprint based criminal record background checks will be sent to a designated secure website managed by the Massachusetts Department of Criminal Justice Information Services (DCJIS). This site will be only accessed by the Shift Commander and/or his/her designee. These results will then be forwarded to the officer assigned to the background check of the applicant.

4. FEES

- a. Fingerprinting fees include federal, state and local fees. Before being fingerprinted, all licensing applicants must pay the statutory fingerprint fee of thirty dollars (\$30.00) with a money order or bank check payable to the “Commonwealth of Massachusetts.” In addition to a signature, the money order or bank check shall include the name of the applicant hand-printed in block letters.
- b. In addition, licensing applicants must pay the municipal fingerprint fee of seventy dollars (\$70.00) with a money order or bank check payable to the “Town of Swampscott.” In addition to a signature, the money order or bank check shall include the name of the applicant hand-printed in block letters.

5. PROCESSING BY THE POLICE DEPARTMENT

- a. Upon receipt of the fingerprints, the Civil Fingerprinting Consent Form and the applicable fee, the Swampscott Police Department shall transmit the fingerprints it has obtained to the Identification Section of the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Services (DCJIS), and/or the Federal Bureau of Investigation (FBI) or the successors of such agencies as may be necessary for the purpose of conducting fingerprint-based state and national criminal records background checks of license applicants specified in the Town’s Civil Fingerprinting by-law and this Policy. All licensing applicants’ fingerprints will be searched against the Automated Fingerprint Identification System (IAFIS) fingerprint database.
- b. The results of the state and national criminal history records will be returned directly to the live scan fingerprint device of the submitting department and/or a designated secure website managed by the Massachusetts Department of Criminal Justice Information Services (“DCJIS”). For results that are returned without a disposition to a charge, the submitting department is responsible for gathering the missing disposition(s). The DCJIS may be used to contact out-of-state agencies using the International Justice and Public Safety (Nlets) message keys.

- c. The Police Department shall transmit the results of the criminal background check to the Licensing Authority. The Licensing Authority shall, in turn, review the results of the criminal history check and determine suitability of the license applicant at its sole discretion.
- d. The state and national criminal history records background check for civil licensing purposes may only be conducted based on a fingerprint check as authorized by the Town's Bylaw and may not be conducted based on name and date of birth.
- e. A federal background check may not be conducted for Town employment applicants unless such employment involves a position requiring a license issued by the Town.

6. ACCESS, REVIEW AND AMENDMENT OF CRIMINAL HISTORY RECORD

- a. All state and national criminal history information obtained by the Police Department pursuant to the Bylaw and this Regulation is confidential and can only be disseminated as authorized by law and regulation. Access to the information shall be limited to those individuals with a direct need for criminal history in performing their official duties and functions pursuant to the Bylaw and this Regulation. The Police Department shall maintain a central secondary dissemination log to record any dissemination of criminal background information outside of the Police Department, including dissemination at the request of the individual seeking a license.
- b. Any non-law enforcement Town employee who as a result of this process receives and reviews, or maintains state and national criminal history records check results must first complete DCJIS's information security/identification verification training, as well as DCJIS CORI training. All records will be securely maintained in accordance with state and national disclosure, retention and security requirements.
- c. After receiving criminal history information from the Police Department, prior to questioning the individual about his or her criminal history or determining an applicant's suitability due to criminal history, the Licensing Authority shall provide the applicant with written notice of the criminal history results and an opportunity to challenge the accuracy or completeness of the criminal history within fourteen (14) days of the date of the written notice.
- d. All licensing applicants have the right to challenge the information contained within a fingerprint-based state or national criminal history record response. In order to change, correct or update criminal history record in question, the licensing applicant must follow the procedures listed below:

If, after reviewing his/her identification record, the subject thereof believes that it is incorrect or incomplete in any respect and wishes changes, corrections or updating of the alleged deficiency, he/she should apply directly to the agency which contributed the questioned information. The subject of a record may also direct his/her challenge as to the accuracy or completeness of any entry on his/her FBI record to the FBI, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306. The FBI will then forward the challenge to the agency which submitted the data requesting that the agency verify or correct the challenged entry. Upon the receipt of an official

communication directly from the agency which contributed the original information, the FBI CJIS Division will make any changes necessary in accordance with the information supplied by that agency.

- e. As part of the application package issued by the Town of Swampscott's licensing authority, all applicants will be supplied with information regarding the procedures for obtaining a change, correction, or updating of a criminal record, including a copy of "FBI Procedure for Changing, Correcting or Updating a Record" pertaining to FBI Identification records and DCJIS's "Information Concerning the Process in Correcting a Criminal Record."
- f. The Licensing Authority shall not deny an applicant the license based on information in the record until the applicant has been afforded the opportunity to correct or complete the information, and/or has declined to do so within fourteen (14) days from the date of the written notice.
- g. If an applicant wants to challenge the accuracy or completeness of the record, the applicant must do so in writing to the Licensing Authority within fourteen (14) days of the date of the written notice as set forth in Title 28 CFR 16.34.

7. LICENSING DECISIONS AS A RESULT OF THE CRIMINAL HISTORY CHECK

- a. The Licensing Authority is hereby authorized to deny an application for any license specified herein who is determined unfit for the license due to criminal history information obtained on the applicant after the provisions of Section 6 have been met.
- b. Factors that the Licensing Authority may consider in making a determination regarding fitness may include, but are not limited to:
 - (1) whether the individual has been convicted of, or is under pending indictment for a crime that bears upon said individual's ability or fitness to serve in that capacity, including any felony or misdemeanor that involved force, possession of a controlled substance or a sex-related offense;
 - (2) relevance of the records to the license sought;
 - (3) time since the conviction;
 - (4) age of the individual at the time of the offense;
 - (5) the number of offenses;
 - (6) the seriousness and specific circumstances of the offense;
 - (7) any relevant evidence of rehabilitation or lack thereof; and
 - (8) any other relevant information, including information submitted by the individual or requested by the organization.

- c. The applicant is to be notified of the Licensing Authority's decision and the basis for it in a timely manner.

8. **ACCESS AND CONFIDENTIALITY OF CRIMINAL HISTORY RECORD**

- a. All state and national criminal history information obtained by the Police Department pursuant to the by-law and this Policy is confidential and can only be disseminated as authorized by this Policy, and applicable law and regulation. Access to the information shall be limited to those individuals with a need for criminal history in performing their official duties and functions pursuant to the by-law and this Policy. All state and national criminal history shall be securely and confidentially maintained at all times in accordance with state and national disclosure, retention and security requirements. Such criminal history shall be maintained in a secure area out of the view of the public and unauthorized personnel. The Police Department shall maintain a central secondary dissemination log to record any authorized dissemination of criminal background information outside of the Police Department.
- b. Any non-law enforcement Town employee who, pursuant to the disclosure requirements contained in this Policy, receives and reviews or maintains state and national criminal history records check results as a result of their role in the licensing process must become familiar with the confidentiality, dissemination and disclosure limitations as set forth by DCJIS and the FBI.
- c. Fingerprint-based state and national criminal history record information shall not be retained or stored except for the purpose of allowing an applicant the opportunity to challenge the criminal history record. During the challenge stage, the fingerprint-based state and national criminal history record information shall be stored in a secure location and access to the information shall be restricted to authorized personnel.
- d. When fingerprint-based state and national criminal history information is no longer needed, it shall be destroyed by burning, shredding, or other method rendering the information unreadable.

9. **PENALTIES**

- a. Any applicant who submits false information to the Police Department including a false identification of an applicant or his/her authorized agent or responsible manager, and/or violates the within Regulations may be subjected to suspension or revocation of rights of their license by the Licensing Authority. Said revocation shall be initiated by the Licensing Authority by written notification of such intent to suspend or revoke, sent to the license holder. The Licensing Authority shall hold a Public Hearing upon such suspension or revocation. The hearing shall be commenced within two weeks of the notice of intent to suspend or revoke said privileges.



TOWN OF SWAMPSCOTT OFFICE OF THE SELECT BOARD

APPLICATION FOR A HAWKER AND PEDDLAR LICENSE AND DOOR TO DOOR SOLICITATION

Application Fee: \$50.00

APPLICANT INFORMATION:

Applicant Name: _____ Applicant Phone #: _____

Applicant Address: _____

Email Address: _____

Applicant Height: _____ Eye Color: _____ Hair Color: _____

Applicant Social Security Number: _____

BUSINESS & OPERATION INFORMATION:

Period of time for which activity will be carried on in the Town of Swampscott:

From: _____ To: _____

Location within Town: _____

Brief Description of Activity:

Name of Business/Company: _____

Name of Employer/Manager: _____

VEHICLE INFORMATION:

Motor Vehicle Year: _____ Make: _____ Model: _____ Color: _____

V.I.N: _____ Reg. Number: _____

State: _____ Address of owner: _____

Statement of criminal record within the past ten years:

Applicant must pay a \$50.00 application fee made payable to the Town of Swampscott. Applicants should bring the application fee, and this completed application (including the Civil Fingerprinting Consent Form) to the Police Department. At this time, applicants shall submit fingerprints to the Town of Swampscott Police Department for the Police Department to be able to conduct a state and national fingerprint-based criminal history check. At that time the application from provides two separate bank checks or money orders for fingerprints.

Fingerprinting fees include federal, state and local fees. Before being fingerprinted, all licensing applicants must pay the statutory fingerprint fee of thirty dollars (\$30.00) with a money order or bank check payable to the "Commonwealth of Massachusetts." In addition to a signature, the money order or bank check shall include the name of the applicant hand-printed in block letters.

In addition, licensing applicants must pay the municipal fingerprint fee of seventy dollars (\$70.00) with a money order or bank check payable to the "Town of Swampscott." In addition to a signature, the money order or bank check shall include the name of the applicant hand-printed in block letters.

Please see attached Civil Fingerprint Policy for information.

If food items are involved, applicant must obtain a license from the Board of Health

Signature: _____ **Health Director:** _____

I hereby certify under penalty of perjury that all statements made in connection with this application are true and complete to the best of my knowledge.

Signature: _____ Dated: _____

For Official Use Only

POLICE CHIEF APPROVAL:

APPROVED:

REJECTED:

Signature: _____ Dated: _____

TOWN ADMINISTRATOR APPROVAL:

APPROVED:

REJECTED:

Signature: _____ Dated: _____

Notes:
