

## LOCAL LAW # 1 OF 2013

### A LOCAL LAW REQUIRING BACKGROUND INVESTIGATIONS FOR ALL NEWLY HIRED CITY EMPLOYEES AND OFFICERS

Be it enacted by the Common Council of the City of Oneonta as follows:

SECTION 1: The City of Oneonta (hereinafter the “City”) after the effective date of this Local Law shall require all applicants for employment, either as a City Officer or City Employee, other than as a duly elected City Officer, to be subject to a background investigation to determine the suitability of such applicant for employment. Such investigation shall include, but may not be limited to, the taking of fingerprints of such prospective employees as a prerequisite for employment.

A. City Officer – Other than a duly elected City Officer, City Officer shall mean: Assessor, City Attorney, City Clerk, City Manager, City Prosecutor, Deputy City Clerk, Deputy Director of Finance, Director of Finance, Director of Municipal Facilities & Operations. It shall not include the half-time City Judge or City Health Officer.

B. City Employee – City Employee shall mean any employee holding one or more of the following titles on a full time or part-time basis:

Accountant, Account Clerk, Account Clerk/Cleaner, Account Clerk/Typist, Administrative Assistant, Animal Control Officer, Assistant City Engineer, Assistant Fire Chief, Assistant to the General Supervisor, Automotive Mechanic, Automotive Parts Storekeeper, Automotive Serviceperson, Bingo Inspector, Bus Driver, Bus Driver/Dispatcher, Building Maintenance Mechanic, Central Garage Working Supervisor, Chief Dispatcher, Chief Wastewater Treatment Plant Operator, Chief Water Treatment Plant Operator, City Engineer, City Historian, Civilian Dispatcher, Clerk, Cleaner, Clerk/Cleaner, Code Enforcement Inspector, Code Enforcement Officer, Computer Technician, Customer Service Representative, Custodial Worker, Custodian, Data Entry Machine Operator, Deputy Supervisors, Director of Community Development, Economic Development Specialist, Engineering Aide, Engineering Technician, Fire Captain, Fire Chief, Firefighter, Firefighter-Call, Firefighter (part-time), Fleet Operations Manager, General Supervisor, Groundskeeper, Head Automotive Mechanic, Head Bus Driver, Head Lifeguard, Heavy Equipment Operator, Housing Rehabilitation Specialist, Keyboard Specialist, Laboratory Director, Laboratory Technician, Laborer, Licensing Clerk, Lifeguard, Maintenance Worker, Mobility Coordinator, Motor Equipment Operator, Ordinance Inspector, Parking Enforcement/Animal Control Officer, Parking Enforcement Officer, Parking Lot Attendant, Parking Meter Checker, Parking Meter Repairperson, Parks Supervisor, Payroll Clerk, Personnel Assistant, Personnel Assistant Trainee, Personnel Director, Plumbing Inspector, Police Chief, Police Lieutenant, Police Matron, Police Officer, Police Sergeant, Purchasing Agent, Receptionist, Records Retention Clerk, Recreation Attendant, Recreation Assistant, Recreation Clerk, Recreation Director, Recreation Specialist, Registrar of Vital Statistics, School Crossing Guard, Sealer of Weights and Measures, Security Guard, Senior Account

Clerk, Senior Account Clerk/Typist, Senior Automotive Mechanic, Senior Bus Driver, Senior Bus Driver/Dispatcher, Senior Civilian Dispatcher, Senior Clerk, Senior Clerk/Cleaner, Senior Data Entry Machine Operator, Senior Keyboard Specialists, Senior Wastewater Treatment Plant Operator, Senior Water Treatment Plant Operator, Student Worker, Superintendent of Building & Grounds, Supervisor of Street and Parks, Supervisor of Water and Sewers, Transcriptionist, Transportation Director, Transportation Processing Clerk, Wastewater Treatment Plant Operator Trainee, Water & Sewer Maintenance Supervisor, Water Treatment Plant Mechanic, Water Treatment Operator, Water Treatment Plant Operator Trainee, Water Safety Instruction Supervisor, Wastewater Distribution Maintenance Mechanic, Water Distribution Maintenance Mechanic, Working Supervisor, Youth Center Director.

SECTION 2: Upon receipt of an application for any such employment, the City Manager (or the Personnel Director upon written designation as set forth in this local law), shall, subject to the rules and regulations of the Division of Criminal Justice Services, initiate a criminal history records check of the person making application. Prior to initiating the fingerprinting process, the City Manager shall furnish the applicant with the form described in Section 5 of this Local Law and shall obtain the applicant's consent to the criminal history records check. The City Manager shall obtain from each applicant a set of fingerprints and the City Manager shall promptly transmit such fingerprints and the Division of Criminal Justice Services processing fee imposed pursuant to subdivision eight-a of Section eight hundred thirty-seven of the Executive Law to the Division of Criminal Justice Services. The submission of fingerprints and the applicable fees shall be in the form and manner as prescribed by the Division of Criminal Justice Services. The Division of Criminal Justice Services shall forward such criminal history record to the City Manager in a timely manner.

SECTION 3. All such criminal history records processed and sent pursuant to this subdivision shall be confidential pursuant to the applicable federal and state laws, rules and regulations and shall not be published or in any way disclosed to persons other than the City Manager unless otherwise authorized by Law. No cause of action against the City or the Division of Criminal Justice Services for damages related to the dissemination of criminal history records pursuant to this subdivision shall exist when the City or Division of Criminal Justice Services has reasonably and in good faith relied upon the accuracy and completeness of criminal history information furnished to it by qualified agencies. The provision of such criminal history record by the Division of Criminal Justice Services shall be subject to the provisions of subdivision sixteen of Section two hundred ninety-six of the Executive Law. The City Manager shall consider such criminal history record pursuant to New York State Correction Law §§701-703-b and §§751-753.

SECTION 4. The City Manager, in consultation with the Division of Criminal Justice Services and in accordance with all applicable provisions of law, shall promulgate rules and regulations for the use of information derived from a search of the records of the Division of Criminal Justice Services based on the use of such fingerprints. The City Manager shall also develop a form for submission by the City in connection with the submission of fingerprints that contains a specific job title sought and any other information that may be relevant to consideration of the applicant. The documentation developed by the City Manager shall be in the form and manner as prescribed by the Division of Criminal Justice Services.

SECTION 5. The City Manager, in consultation with the division of Criminal Justice Services, shall:

- A. Promulgate a form to be provided to all such prospective City Officers or employees that shall:
  - (i) inform the prospective officer or employee that the City Manager of the City of Oneonta is required to request his or her criminal history information from the Division of Criminal Justice Services and review such information pursuant to this section, and provide a description of the manner in which his or her fingerprint cards will be used upon submission to the Division of Criminal Justice Services;
  - (ii) inform the prospective Officer or employee that he or she has the right to obtain, review and seek correction of his or her criminal history information pursuant to regulations and procedures established by the Division of Criminal Justice Services;
  - (iii) inform the prospective Officer or employee that his or her failure to consent to such a criminal history investigation shall be deemed a disqualification for appointment to the office or employment for which the person has applied.
  
- B. The City Manager shall obtain the signed informed consent of the prospective employee on such form which indicates that such person has:
  - (i) been informed of the right and procedures necessary to obtain, review and seek correction of his or her criminal history information;
  - (ii) been informed of the reason for the request for his or her criminal history information;
  - (iii) consented to such request for a report;
  - (iv) supplied on the form a current mailing or home address for the prospective employee;
  - (v) been informed that he or she may withdraw his or her application for employment pursuant to this section, without prejudice, at any time before employment is offered or declined, regardless of whether the prospective employee or the City Manager has reviewed such prospective employee's criminal history information; and
  - (vi) been informed that pursuant to Correction Law Section 752 his or her application for employment shall be denied by reason of the applicant's having been previously convicted of one or more misdemeanors or felonies or by reason of a lack of "good moral character" when there is a direct relationship between one or

more of the previous criminal convictions and the specific employment sought or the granting of such employment would involve an unreasonable risk to property of the City or to the safety or welfare of specific individuals or the general public.

- (vii) been informed that in making a determination under paragraph (vi) the City shall consider the various factors set forth herein in Correction Law §§751- 753 and shall also give due consideration to a certificate of relief from disabilities or a certificate of good conduct previously issued to the applicant pursuant to Correction Law §§701-703-b.

SECTION 6: When the City Manager determines that employment should be denied by reason of information obtained from the applicant's criminal record history, the applicant shall be afforded written notice thereof, within 30 days of the request, and the right to be heard and offer proof in opposition to such determination.

SECTION 7: The City Manager, by a written authorization, may delegate the authority to fulfill the rights and obligations of this local law to the City Personnel Director, but shall at all times be ultimately responsible for its implementation and function.

SECTION 7: If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any Court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Common Council of the City of Oneonta hereby declares that it would have passed this Local Law or the remainder thereof, had such invalid application or invalid provision been apparent.

SECTION 8: All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

SECTION 9: This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State.