



ORDINANCE NO. 28928

1 AN ORDINANCE related to background checks; amending Subtitle 6B of the
2 Municipal Code, relating to the License Code, by amending Section
3 6B.10.030, entitled "License definitions", and Section 6B.10.190, entitled
4 "Investigations and background checks", to meet Federal Bureau of
Investigation requirements to allow the City to conduct nationwide
background checks for certain license applicants.

5 WHEREAS the Tacoma Municipal Code ("TMC") requires that persons
6 applying for a business license and other City regulatory licenses agree to a
7 criminal background check, and

8
9 WHEREAS the current process requires applicants to first obtain
10 fingerprints from South Sound 911 ("SS911") and then submit a fingerprint card
11 and a fee of \$58.00 payable to the Washington State Patrol ("WSP") to the
12 City's Tax and License Division ("Tax and License"), and

13
14 WHEREAS Tax and License will send the fingerprint card and payment to
15 the WSP, and the WSP will conduct a state background check and forward the
16 results back to the City for review, and

17
18 WHEREAS the new process would allow applicants to obtain their
19 fingerprints from SS911 through a livescan option that is sent to WSP, and upon
20 receipt of the fingerprints and the appropriate fees, WSP will compare the subject's
21 fingerprints against its criminal database and submit the fingerprints to the Federal
22 Bureau of Investigation ("FBI") for a comparison with nationwide records; and the
23 results of the WSP and FBI checks will be returned to the Director, and

24
25 WHEREAS in order to send license applicants to SS911 to process
26 background checks via the livescan option, the City must obtain a new Originating



1 Agency Number (“ORI”) which will determine the type of background check the
2 WSP should conduct, and because the livescan option includes a nationwide
3 background check, the FBI requires certain language and other requirements to be
4 included in the TMC prior to approving a new ORI, and
5

6 WHEREAS federal law provides that a city ordinance authorizing national
7 background checks: (1) must exist as a result of a legislative enactment, (2) require
8 the fingerprinting of applicants who are to be subjected to a national criminal history
9 background check, (3) expressly (“submit to the FBI”) or by implication (“submit for
10 a national check”), authorize the use of FBI records for the screening of applicants,
11 (4) must identify the specific categories of licensees falling within its purview,
12 thereby avoiding over breadth, (5) must not be against public policy, and (6) may
13 not authorize receipt of the Criminal History Record Information by a private entity,
14 and
15

16 WHEREAS the livescan option is streamlined and efficient, resulting in faster
17 background check results, and would be more cost-effective for the license
18 applicant, resulting in reduced fees from \$58.00 to \$44.25, and will provide the City
19 with a full nationwide background check for review prior to issuing licenses, and
20

21 WHEREAS the proposed amendment provides that the “Director” may
22 determine if a nationwide background check is required, and TMC 6B.10.030
23 defines “Director” as “the Director of the Finance Department” or the Director’s
24 designee, which “shall be an employee of the Finance Department,” and upon
25 review of the criminal background check, the Director will determine whether the
26



1 record subject meets the requirements for license denial as outlined in this subtitle,
2 and

3 WHEREAS a record subject may request and receive a copy of the record
4 subject's criminal history record information from the Director, and should the
5 record subject seek to amend or correct the record, the record subject must contact
6 the WSP for a Washington State record or the FBI for records from other
7 jurisdictions maintained in its file, and

9 WHEREAS on October 3, 2023, the Government Performance and Finance
10 Committee voted unanimously to move this proposal forward to the full City Council;

11 Now, Therefore,

12 BE IT ORDAINED BY THE CITY OF TACOMA:

13 Section 1. That the City Council hereby adopts the Recitals of this
14 Ordinance as its formal legislative findings.

15 Section 2. That Subtitle 6B of the Municipal Code, relating to the License
16 Code, is hereby amended, by amending Section 6B.10.030, entitled "License
17 definitions", and Section 6B.10.190, entitled "Investigations and background
18 checks", to meet Federal Bureau of Investigation requirements to allow the City to
19 conduct nationwide background checks for certain license applicants.

20 Section 3. That Subtitle 6B.10.030 - License definitions, is hereby
21 amended, as follows:

22
23
24
25 "Director" means the Director of the Finance Department of the City or [the Director's designee, which](#)
26 [shall be an employee of the Finance Department.](#) ~~any officer, agent, or employee of the City designated to~~
~~act on the Director's behalf.~~



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Section 4. That Subtitle 6B.10.190 - Investigations and background

checks, is hereby amended, as follows:

A. All persons submitting application for a licenses shall be investigated by such departments or officers of the City as the Director may determine.

B. All persons submitting application for a licenses in TMC 6B.20 (Annual Business License), 6B.30 (Adult Entertainment), 6B.70 (Entertainment/Dancing—Alcohol Served), 6B.80 (Entertainment/Dancing—No Alcohol Served and Teenage Dance), 6B.90 (Fire Alarms and Fire Suppression Systems), 6B.110 (Garages, Fuel Stations, and Marine Repair Facilities), 6B.125 (Hazardous Materials), 6B.140 (Transient Accommodations), 6B.145 (Live/Work and Work/Live), 6B.150 (Oil and Gas Delivery Vehicles), 6B.160 (Pawnbrokers, Secondhand Dealers and Garage Sales), 6B.170 (Sales—Door to Door Soliciting), 6B.175 (Sales—Food Truck Vendors), 6B.180 (Sales—Sidewalk Vendors), 6B.220 (For-Hire Regulations), and 6B.230 (Temporary Event—Multiple Vendor License) may be subject to a ~~state and/or federal~~ criminal background check by the Washington State Patrol and/or Federal Bureau of Investigation pursuant to RCW 35.21.920, ~~and the results of such check may be sufficient grounds for denial of a license.~~

C. Upon receipt of the fingerprints and the appropriate fees, the Washington State Patrol will compare the subject's fingerprints against its criminal database and submit the fingerprints to the Federal Bureau of Investigation for a comparison with nationwide records. The results of the Washington State Patrol and Federal Bureau of Investigation's check will be returned to the Director or the Director's designee. The Director's designee shall be an employee of the Finance Department.

D. Upon review of the criminal background check, the Director will determine whether the record subject meets the requirements for license denial as outlined in this subtitle.

E. A record subject may request and receive a copy of the record subject's criminal history record information from the Director. Should the record subject seek to amend or correct the record, the record subject must contact the Washington State Patrol for a Washington State record or the Federal Bureau of Investigation for records from other jurisdictions maintained in its file.

Section 5. That the City Clerk, in consultation with the City Attorney, is authorized to make necessary corrections to this ordinance, including, but not



1 limited to, the correction of scrivener's/clerical errors, references, ordinance
2 numbering, section/subsection numbers, and any references thereto.

3
4 Passed _____

5
6 _____
7 Mayor

8 Attest:
9 _____
10 City Clerk

11 Approved as to form:
12 _____
13 Deputy City Attorney

14
15
16
17
18
19
20
21
22
23
24
25
26