



**TOWN OF NANTUCKET
BOARD OF SELECTMEN**

CIVIL FINGERPRINTING POLICY FOR MUNICIPAL LICENSES

I. **POLICY STATEMENT:** 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 Town licenses to ensure they are used responsibly and lawfully. This Policy has been promulgated to achieve the above stated safety goals and objectives pursuant to the Town's adoption of the Chapter 108 of the By-laws of the Town of Nantucket consistent with the authorizing statute, G.L. c. 6, §172B ½.

II. **AUTHORITY:** This policy is promulgated in accordance with 28 CFR 20.33(a)(3), Public Law 92-544, M.G.L. c. 6, § 172B 1/2, and Chapter 108 of the By-laws of the Town of Nantucket authorizing fingerprint-based state and national criminal history screening.

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.

III. **APPLICABLE LICENSES:**

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

- Hawking and Peddling or other Door-to-Door Salespeople
- Manager of Alcoholic Beverage License
- Owner or Operator of Public Conveyance
- Dealer of Second-hand Articles
- Pawn Dealers
- Hackney Drivers
- Ice Cream Truck Vendors
- Mobile Food Units

IV. SUBMISSION OF FINGERPRINTS

- a. All applicants required under Section III of this Policy to submit fingerprints prior to action on their license application must submit fingerprints to the Police Department within seven (7) days of the submittal of their license application to the Licensing Authority.
- b. Before being fingerprinted, 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.
- c. 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:
 - Current Massachusetts Learner's Permit, Current Massachusetts Driver's License
 - Valid Passport
 - Massachusetts Registry of Motor Vehicles Identification Card
- d. Licensing applicants may appear at the Nantucket Police Department, located at 4 Fairgrounds Road, for fingerprints collection on Wednesdays between the hours of 8:00 AM and 4:00 PM. If an applicant is unable to appear on Wednesday, he or she may contact the permit clerk by calling (508) 325-4100 ext. 5917, Monday through Friday, between the hours of 8:00 AM and 4:00 PM to schedule an appointment.
- 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.

V. PAYMENT OF FINGERPRINTING 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 ten dollars (\$10.00).

VI. PROCESSING BY THE POLICE DEPARTMENT

- a. The Police Department, through authorized and designated personnel, will forward the applicant's fingerprints either electronically or manually to the State Identification Section of the Massachusetts State Police which will submit them to the FBI. All fingerprint submissions pursuant to the Town's By-law must contain the Town's By-law number in the "Reason Fingerprinted" block of the fingerprint submission form.
- 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 By-law 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 the licenses issued by the Town referenced in Section III of this Policy and the Town's By-law, as approved by the FBI.

VII. ACCESS, REVIEW AND AMENDMENT 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 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 By-law and this Policy. 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. 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.
- e. 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. 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.

- f. As part of the application package issued by the Town of Nantucket'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."
- g. 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.

- h. 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.
- i. 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 in accordance with state law.

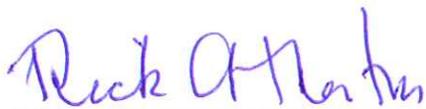
VIII. LICENSING DECISIONS AS A RESULT OF THE CRIMINAL HISTORY CHECK

- 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 VII 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.

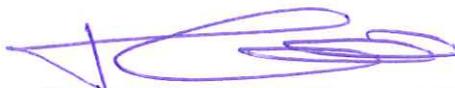
IX. **PENALTIES**

- 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 Policy 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.

Approved by the Nantucket Board of Selectmen.



Rick Atherton, Chairman



Robert DeCosta, Vice Chairman



Bruce D. Miller



Matt Fee



Tobias Glidden

May 28, 2014

Dated

491430/NANT//0001