

**CITY OF SILVERTON**  
**ORDINANCE**  
**21-02**

**AN ORDINANCE OF THE SILVERTON CITY COUNCIL AMENDING SILVERTON MUNICIPAL CODE CHAPTER 2.40 TO ENSURE BACKGROUND CHECK LANGUAGE IS CONSISTENT AND COMPORTS WITH PROCEDURE**

**WHEREAS**, the Silverton Municipal Code (Code) contained language pertaining to criminal background checks that was not consistent with what was occurring in practice; and

**WHEREAS**, the Code contained terms that were not used consistently through Chapter 2.40; and

**WHEREAS**, the Code contained language that is more appropriate for an administrative policy.

**NOW, THEREFORE, THE CITY OF SILVERTON ORDAINS AS FOLLOWS:**

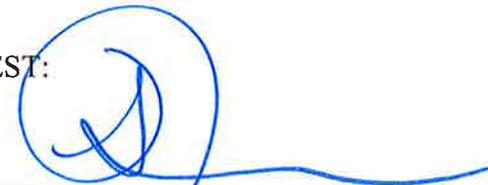
Section 1: The Silverton Municipal Code is amended in substantially the same form as set forth in the attached Exhibit A (Chapter 2.40).

Section 2: This ordinance is and shall be effective within 30 days of its passage.

Ordinance adopted by the City Council of the City of Silverton, this 5<sup>th</sup> day of April, 2021.

  
\_\_\_\_\_  
Mayor, City of Silverton  
Kyle Palmer

ATTEST:

  
\_\_\_\_\_  
City Manager Pro Tem/Recorder, City of Silverton  
Bob Willoughby

## Exhibit A

(additions in *italics* and deletions in ~~strikethrough~~)

### Chapter 2.40 CRIMINAL BACKGROUND CHECKS

Sections:

**2.40.010 Purpose.**

~~**2.40.020 Criminal record check required.**~~

~~**2.40.0320 Procedure.**~~

**2.40.0430 Retention of criminal record checks.**

**2.40.0540 Use of criminal record checks.**

**2.40.0650 SMC 2.40.0540** provisions subject to labor contracts.

#### **2.40.010 Purpose.**

A. The council finds as follows: In order for the city of Silverton government to operate effectively, persons selected for employment or as a public service volunteer with the city of Silverton must have the highest degree of citizen and public trust and confidence.

B. All city of Silverton employees and public service volunteers represent the city to its citizens. Many city employees and volunteers have responsibilities to regulate and maintain public health and safety. Most city employees and volunteers have access to public funds and property, and possess access to privileged and proprietary information submitted to the city in confidence. Additionally, city employees and volunteers may be required to operate publicly owned vehicles.

C. The council concludes that the aforementioned considerations justify the use of a criminal background check for all prospective city employees, and some volunteer positions where it is in the public interest to do so. Volunteer positions requiring criminal background checks will be determined by the city manager, based on the duties and responsibilities of the position or public safety.

#### ~~**2.40.020 Criminal record check required.**~~

~~Prospective applicants and volunteers with the city of Silverton shall be required to authorize the city to conduct a criminal offender information check through the OSP LEDS system. Additionally, applicants shall authorize the city to conduct a check of their driving record and status. The criminal history and driving record/status authorization form shall be maintained by the city manager or his designee. (Ord. 02-116, 2002)~~

#### **2.40.0320 Procedure.**

*Prospective employees and some volunteers will be required to undergo a criminal background check. City manager, or designee, shall forward the criminal history authorization forms for ~~an~~ prospective*

employees and volunteers with ~~the~~ a request that a records check be conducted to the Silverton police department. Upon receipt of the authorization form a member of the Silverton police department trained and authorized to perform criminal history and driving record/status checks through the LEDS system shall conduct the check on the prospective employee or volunteer. The police department member conducting the records check shall orally report to the city that the applicant's record indicates "no criminal record" or "criminal record." The Police Department member shall also orally provide driving record and status information to the city. Any "hard copy" of the records check shall then be shredded. The police department will maintain the records check authorization form. If the ~~applicant's~~ *prospective employee or volunteer's* record is reported as "criminal record," the city ~~and Silverton police department will follow all applicable state rules and regulations related to the criminal history records obtained. may,~~ under OAR [257-010-0025\(1\)\(c\)](#), request a written criminal history report from the OSP Identification Services Section and pay the applicable fee for this service. If a written criminal history record has been obtained the city of Silverton shall make it available to the official making the selection.

**2.40.0430 Retention of criminal record checks.**

The written criminal history record on persons who are not hired as an employee or a volunteer shall be retained in accordance with the requirements of OAR [166-040-0080](#) for a period of three years and thereafter shall be destroyed by shredding. The criminal history record of ~~applicants,~~ *prospective employees* and volunteers with a criminal history that are hired or appointed shall become a part of the confidential personnel file of that employee or volunteer. Access to confidential personnel files is limited to only authorized persons who have an official need to access such files that is sanctioned by law or regulation.

**2.40.0540 Use of criminal record checks.**

~~Applicants for employment~~ *Prospective employees or volunteers or a volunteer position* who have a felony criminal conviction, or a history of conviction of a misdemeanor involving moral turpitude, violence or theft, shall be closely examined by selecting officials to determine if the person possesses the required degree of citizen and public trust and confidence. Each employment or volunteer selection will, however, be made on an individual, case-by-case basis, taking into account the person's qualifications, the requirements of the particular job or volunteer post applied for, and the results of the criminal history check. Factors *including but not limited to* ~~such as~~ the age of an offender at the time of the offense, the type of offense and subsequent rehabilitation, and the public sensitivity of the position under consideration ~~must~~ *shall* be taken into account in evaluating a criminal history report.

**2.40.0650 SMC [2.40.0540](#) provisions subject to labor contracts.**

The provisions of SMC [2.40.0540](#) are subject to city contracts with recognized unions.