

Chapter 13B

Fingerprint-Based Criminal Record Background Checks

State law reference – Authorized by Chapter 256 of the Acts of 2010

Editor’s note – Renumbered as Chapter 13B (from Chapter 13A) for codification.

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Sec. 13B 1. Purpose and Authorization.

In order to protect the health, safety and welfare of the inhabitants of the Town of Stoneham, and as authorized by G.L. c. 6, § 172B½, this Bylaw shall require (a) applicants for certain Town licenses permitting the conduct of specific occupational activities within the Town as enumerated in Section 13A-2, below, to submit to fingerprinting by the Stoneham Police Department (“Police Department”), (b) the Police Department to conduct criminal record background checks based on such fingerprints, and (c) the Town to consider the results of such background checks in determining whether or not to grant a license.

The Town authorizes the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Systems (the “DCJIS”) and the Federal Bureau of Investigation (the “FBI”) as may be applicable to conduct on behalf of the Town and its Police Department fingerprint-based state and national criminal record background checks, including of FBI records, consistent with this Bylaw. The Town authorizes the Police Department to receive and utilize

records of the State Police, the DCJIS and the FBI in connection with such background checks, consistent with this Bylaw.

Sec. 13B 2. Applicant's Submission to Fingerprinting by the Police Department.

Any applicant for a license to engage in any of the following occupational activities within the Town shall submit a full set of fingerprints taken by the Stoneham Police Department within ten (10) days of the date of the application for a license for the purpose of conducting a state and national criminal record background check to determine the suitability of the applicant for the license:

- Solicitors and Canvassers where permits are required;
- Ice Cream Truck Vendor
- Dealers in Second-Hand Articles; and
- Pawn Dealers.

At the time of fingerprinting, the Police Department shall notify each individual who is fingerprinted that his or her fingerprints will be used to check such individual's FBI and state criminal history records.

Sec. 13 3. Police Department Processing of Fingerprint-Based Criminal Record Background Checks and Communication of Results.

(a) The Police Department shall transmit fingerprints it has obtained pursuant to Section 13A-2 above to the Identification Section of the Massachusetts State Police, the DCJIS and/or the FBI as may be necessary for the purpose of conducting fingerprint-based state and national criminal records background checks of license applicants specified in the said section.

(b) The Police Department shall provide the applicant with a copy of the results of his or her fingerprint-based criminal record background check and supply the applicant the opportunity to complete, or challenge the accuracy of, the information contained in it, including in the FBI identification record. The Police Department shall also supply applicants with information regarding the procedures for obtaining a change, correction or updating of a criminal record, including a copy of 28 CFR Part 16.34 pertaining to FBI identification records. In no event shall the Police Department render a suitability evaluation pursuant to the paragraph below until it has taken the steps detailed in this paragraph and otherwise complied with any other procedures required by any Town policy applicable to licensing-related criminal record background checks.

(c) The Police Department shall communicate the results of fingerprint-based criminal record background checks to the applicable licensing authority within the Town. The Police Department shall in addition render to the licensing authority its evaluation of the

applicant's suitability for the proposed occupational activity based upon the results of the criminal records background check and any other relevant information known to it. In rendering its evaluation, the Police Department shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability. The Police Department shall indicate whether the applicant has been convicted of, or is under pending indictment for, a crime that bears upon his or her suitability, or any felony or misdemeanor that involved force or the threat of force, controlled substances or a sex-related offense.

Sec. 13B 4. Reliance on Results of Fingerprint-Based Criminal Record Background Checks.

Licensing authorities of the Town shall utilize the results of fingerprint-based criminal record background checks for the sole purpose of determining the suitability of the subjects of the checks in connection with the license applications specified in Section 13A-2, above. A Town licensing authority may deny an application for a license, including renewals or transfers thereof, on the basis of the results of a fingerprint-based criminal record background check if it determines that the results of the check render the subject unsuitable for the proposed licensed or occupational activity. The licensing authority shall consider all applicable laws, regulations and relevant factors bearing on an applicant's suitability in making this determination. The licensing authority shall not deny a license based on information in a criminal record unless the applicant has been afforded a reasonable time to correct or complete the record or has declined to do so.

Sec. 13A 5. Compliance with Applicable Law, Regulation and Town Policy, Including No Dissemination To Unauthorized Persons Or Entities.

Implementation of this Bylaw and the conducting of fingerprint-based criminal record background checks by the Town shall be in accordance with all applicable laws, regulations and Town policies. The Select Board is authorized to promulgate regulations for the implementation of this Bylaw. The Town shall not disseminate criminal record information received from the FBI to unauthorized persons or entities.

Sec. 13B 6. Fees.

The fee charged by the Police Department for the purpose of conducting fingerprint-based criminal record background checks shall be One Hundred Dollars (\$100.00). A portion of the fee, as specified in G.L. c. 6, § 172B½, shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder of the fee may be retained by the Town for costs associated with the administration of the fingerprinting system.