

**RESOLUTION NO. 5  
SERIES 2021**

**INTRODUCED BY: KATY BROWN  
SECONDED BY: MIKE GALLAGHER**

**A  
RESOLUTION  
OF THE CITY COUNCIL  
OF THE CITY OF CHERRY HILLS VILLAGE  
APPROVING A POLICY REGARDING CRIMINAL HISTORY RECORD INFORMATION FOR  
NONCRIMINAL JUSTICE PURPOSES RELATED TO LIQUOR LICENSING**

**WHEREAS**, the City Council of the City of Cherry Hills Village is authorized under its home rule charter and pursuant to its general municipal powers to adopt policies and procedures in furtherance of its municipal functions and authority; and

**WHEREAS**, the City of Cherry Hills Village accesses the Colorado Bureau of Investigations-Criminal Justice Information Services Systems (the "Systems") to investigate the qualifications of liquor license applicants and liquor licensees pursuant to C.R.S. § 44-3-307; and

**WHEREAS**, the Colorado Bureau of Investigations ("CBI") requires users of the Systems to have in place several policies to ensure adequate security of criminal history record information for noncriminal justice purposes; and

**WHEREAS**, the City Council desires to adopt the policy set forth in **Attachment A** consistent with federal and state regulations governing criminal history record information for noncriminal justice purposes; and

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Cherry Hills Village, Colorado that:

Section 1. The City Council hereby approves and adopts the Policy Regarding Criminal History Record Information for Noncriminal Justice Purposes (Liquor Licensing), attached hereto as **Attachment A**.

Section 2. If any part or provision of this resolution is adjudged to be unenforceable or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this resolution, it being the intention of the City Council that the various provisions hereof are severable.

Section 3. This resolution shall be effective immediately.

Introduced, passed and adopted at the  
regular meeting of City Council this 19<sup>th</sup> day  
of January, 2021, by a vote of 6 yes 0 no.

(SEAL)

DocuSigned by:  
*Russell O. Stewart*  
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Russell O. Stewart, Mayor

ATTEST:

DocuSigned by:  
*Laura Gillespie*  
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Laura Gillespie, City Clerk

APPROVED AS TO FORM:

DocuSigned by:  
*Kathie B. Guckenberger*  
ADE1E30DE3044FD...  
Kathie B. Guckenberger, City Attorney

**ATTACHMENT A**

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## **POLICY REGARDING CRIMINAL HISTORY RECORD INFORMATION FOR NONCRIMINAL JUSTICE PURPOSES RELATED TO LIQUOR LICENSING**

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### **I. Purpose**

The City is authorized to access Criminal History Record Information (“CHRI”) to investigate the qualifications of liquor license applicants and liquor licensees under Colorado Revised Statute (C.R.S.) Section 44-3-307. The purpose of this Policy is to address the use, maintenance, dissemination, confidentiality and security of CHRI for this noncriminal justice purpose by the City of Cherry Hills Village (the “City”).

### **II. Scope**

This Policy shall apply to systems, processes, or workflows that involve the request, access, storage, sharing, and/or destruction of CHRI obtained from the CBI-CJIS (Colorado Bureau of Investigations-Criminal Justice Information Services) Systems in response to a fingerprint-based background check for investigating the qualifications of liquor license applicants or liquor licensees (“Liquor Licensing Purposes”).<sup>1</sup> The City accesses CHRI for Liquor Licensing Purposes through the CBI-provided solution referred to as the Secure Document Delivery System (“SDDS”).

This Policy sets forth the following policies required by the CBI for access to the CBI-CJIS Systems: Acceptable Use Policy, Media Protection Policy, Physical Protection Policy, Retention Policy, and Incident Response Policy.

### **III. Policies**

#### **A. Authorized Personnel**

1. CHRI for Liquor Licensing Purposes shall be accessed by and provided to authorized personnel only.
2. Authorized personnel shall be reviewed and updated by the Terminal Agency Coordinator as needed.

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<sup>1</sup> Note, the Police Department obtains CHRI from the CBI-CJIS Systems for City administrative staff with access to the Joint Public Safety Facility. See separate policies of the Police Department regarding the use, maintenance, dissemination, confidentiality and security of CHRI for this noncriminal justice purpose and for criminal justice purposes.

3. Authorized personnel shall receive security awareness training within six (6) months of hiring/handling of CHRI and every two years thereafter. Security awareness training will cover areas specified in the CJIS Security Policy at a minimum.
4. Authorized personnel for CHRI for Liquor Licensing Purposes are:
  - i. All Police Department personnel authorized for CHRI for criminal justice purposes are also authorized for CHRI for noncriminal justice purposes
  - ii. Finance Director
  - iii. City Clerk
    - (a) The City Clerk shall serve as the Terminal Agency Coordinator, the Local Agency Security Officer, the SDDS Administrator, and the Billing Contact, if applicable, for CHRI for Liquor Licensing Purposes.

#### B. Acceptable Use

1. This Policy supplements the City of Cherry Hills Village Electronic Media Access and Acceptable Use Policy, as the same may be amended from time to time. In the event of conflict or ambiguity, the City Clerk will determine the appropriate application of the policies for Liquor Licensing Purposes.
2. Applicants are referred to the Colorado Applicant Background Services (CABS) program site for submission of background check fingerprints.
3. As part of the fingerprint process, the City must provide applicants with a Privacy Statement outlining the City's authority for collecting the applicant's information, that the applicant's fingerprints will be used to check the national criminal history records of the FBI, and how the information will be used, retained, and shared. The City must obtain a signed acknowledgement from each applicant documenting the applicant's receipt of the foregoing documents (the "Applicant's Acknowledgement").
4. CHRI may only be used for Liquor Licensing Purposes as set forth in C.R.S. Section 44-3-307.
5. CHRI may not be disseminated to non-City organizations or agencies (such as the state liquor licensing authority) for Liquor Licensing Purposes without an Information Exchange Agreement.
6. CHRI may not be forwarded to other organizations/agencies for use in separate, unrelated applications.
7. If an applicant's fingerprint background check reveals a CHRI record, authorized personnel will promptly notify the applicant in writing to the applicant's mailing address or email address provided in the liquor license application that a record exists ("Notice"). The applicant may be given a copy of his or her CHRI only after the identity of the applicant has been verified. The applicant will be given thirty (30) days from the

date of the Notice to obtain a change, correction, or update of his or her CHRI or to decline to do so. The applicant's liquor license application may not be denied based on the CHRI until the expiration of said 30-day period.

8. Existence of CHRI shall not be confirmed or denied to anyone and CHRI shall not be made available except in accordance with applicable law, including applicable provisions of the Colorado Criminal Justice Records Act ("CCJRA") and the Colorado Open Records Act ("CORA").

### C. Media and Physical Protection

1. Authorized personnel with access to the SDDS shall have unique credentials.
2. SDDS results shall be reviewed at least weekly.
3. CHRI received from the SDDS erroneously shall not be opened. Authorized personnel shall immediately contact CBI to report any erroneously delivered CHRI.
4. CHRI shall only be accessed on City-owned computers secured from the public.
5. The City Clerk shall be primarily responsible for obtaining CHRI for Liquor Licensing Purposes from the SDDS. However, in the City Clerk's absence, other authorized personnel with the appropriate level of security awareness training may obtain CHRI for Liquor Licensing Purposes from the SDDS.
6. Upon receipt of an email from the SDDS website indicating that a CHRI record is available, authorized personnel shall: (i) download CHRI from the SDDS to his or her desktop; (ii) upon downloading, immediately print CHRI to a printer secured from the public and not in use by other personnel at the time of printing; and (iii) immediately after printing, permanently delete the CHRI from the desktop. The printed CHRI shall be placed in a sealed envelope marked "Confidential" and shall be delivered to authorized personnel within the Police Department. The authorized personnel within the Police Department shall review the CHRI and utilize its findings as part of the subject liquor license application process. The Police Department shall not make any copies of the CHRI but shall return the CHRI to the City Clerk in a sealed envelope marked "Confidential."
7. CHRI shall not be stored electronically. CHRI shall be kept in physical (printed) form only. The printed CHRI shall be stored in a locked cabinet with access limited to authorized personnel only.
8. CHRI shall be viewed only by authorized personnel. CHRI shall not be left on computer screens, on printers, or on desks where unauthorized personnel or other persons might view it.

9. The City-owned computer assigned to the City Clerk shall be programmed to auto-delete the desktop recycle bin every five (5) minutes to ensure CHRI records downloaded to the desktop are permanently deleted.
10. Computers that have been used to download and print CHRI shall not be released from the City's control until the equipment has been sanitized and all stored information has been cleared.
11. The following activities are prohibited:
  - i. Unauthorized access, copying, or dissemination of CHRI from SDDS.
  - ii. Revealing of SDDS account passwords by authorized personnel to others.
  - iii. Allowing an unauthorized person to use an authorized person's SDDS account.
  - iv. Disclosure of data in a way that violates applicable policy, procedures, or relevant regulations or law, including C.R.S. 44-3-307, CCJRA, and CORA.

D. Retention

1. CHRI and the Applicant's Acknowledgement shall be retained and destroyed in accordance with the Colorado Municipal Records Retention Manual.

E. Incident Response

1. Incidents involving misuse or allegations of misuse of CHRI shall be immediately communicated to the CBI.
2. Authorized personnel must report any media or physical security incidents to the TAC.
3. Any violation of a policy set forth herein may result in network removal, access revocation, corrective or disciplinary action, civil or criminal prosecution, and termination of employment.