

**15-O-18**

**AN ORDINANCE**

**Creating Title 9, Chapter 18 of the Evanston City Code for  
Juvenile Law Enforcement Records**

**NOW BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
EVANSTON, COOK COUNTY, ILLINOIS, THAT:**

**SECTION 1: Legislative Statement.** The Illinois General Assembly enacted Public Act 100-0285, which created numerous amendments to the Juvenile Court Act of 1987 ("Act"). The amendments to the Act provide that all juvenile records which have not been expunged are sealed and may never be disclosed to the general public or otherwise made widely available. The amendments to the Act provide that the Act's confidentiality provisions apply to law enforcement and municipal ordinance violations, willful violation of the confidentiality provisions of the Act is a Class C misdemeanor, and each violation is subject to a fine of \$1,000. The amendments to the Act also provide for various circumstances when juvenile records shall be expunged automatically without a petition brought by the individual seeking expungement.

This Ordinance is intended to protect juveniles against any potential damage stemming from their juvenile arrest, law enforcement, and municipal ordinance violation records, and the unauthorized use or disclosure of confidential records and any potential stigma that would result from their disclosure. The City Council finds that the disclosure of such juvenile records can be a hindrance to an individual's present and future ability to obtain employment, education, housing and credit. The City Council determines that it is in the best interest of the City of Evanston to amend the Evanston

City Code to create an Ordinance that incorporates the amendments found in Public Act 100-0285 providing for the confidentiality and expungement of juvenile arrest, law enforcement, and municipal ordinance violation records.

Article VII, Section (6)a of the Illinois Constitution of 1970, states that the “powers and functions of home rule units shall be construed liberally,” and was written “with the intention that home rule units be given the broadest powers possible.” *Scadron v. City of Des Plaines*, 153 Ill.2d 164 (1992). Pursuant to 65 ILCS 5/1-2-1, the City may make all rules and regulations to carry into effect the powers granted to the City, such is the broad and general grant of authority complementing the City’s home rule powers. At meetings held in compliance with the provisions of the Illinois Open Meetings Act (5 ILCS 120/1 *et seq.*), the City Council considered this Ordinance, heard public comment, and made findings. It is well-settled law in Illinois that the legislative judgment of the City Council must be considered presumptively valid and is not subject to courtroom fact-finding. See *Glenview State Bank v. Village of Deerfield*, 213 Ill.App.3d 747 (2d Dist. 1991); *National Paint & Coating Ass’n v. City of Chicago*, 45 F.3d 1124 (7th Cir. 1995).

**SECTION 2:** Title 9, Chapter 18 of the Evanston City Code of 2012, as amended (“City Code”), is hereby created and shall read as follows:

**CHAPTER 18 – JUVENILE LAW ENFORCEMENT RECORDS****9-18-1: DEFINITIONS.**

The definitions herein are not intended to conflict with the definitions found in the Juvenile Court Act of 1987, 705 ILCS 405/1-3 and 705 ILCS 405/5-915. Terms used in this Title and Chapter, unless the context otherwise requires, have the following meanings:

- (A) “Adult” means a person 21 years of age or older;
- (B) “Court” means the circuit court in a session or division assigned to hear proceedings under the Juvenile Court Act of 1987, 705 ILCS 405/1-1 *et seq.*;
- (C) “Dissemination” or “disseminate” means to publish, produce, print, manufacture, distribute, sell, lease, exhibit, broadcast, display, transmit, or otherwise share information in any format so as to make the information accessible to others;
- (D) “Expunge” means to physically destroy the records and to obliterate the minor's name and juvenile court records from any official index, public record, or electronic database. No evidence of the juvenile court records may be retained by the Evanston Police Department or by any City of Evanston agency or department. Nothing in this Chapter shall require the physical destruction of the internal office records, files, or databases maintained by any prosecutor for the City of Evanston;
- (E) “Juvenile court record” includes, but is not limited to:
  - (1) all documents filed in or maintained by the juvenile court pertaining to a specific incident, proceeding, or individual;
  - (2) all documents relating to a specific incident, proceeding, or individual made available to or maintained by probation officers;
  - (3) all documents, video or audio tapes, photographs, and exhibits admitted into evidence at juvenile court hearings; or
  - (4) all documents, transcripts, records, reports or other evidence prepared by, maintained by, or released by any municipal, county, or state agency or department, in any format, if indicating involvement with the juvenile court relating to a specific incident, proceeding, or individual.
- (F) “Juvenile” or “minor” means a person under the age of 21 years subject to the Juvenile Court Act of 1987, 705 ILCS 405/1-1 *et seq.*;
- (G) “Juvenile police officer” means a sworn police officer who has completed a Basic Recruit Training Course, has been assigned to the position of juvenile police officer by his or her chief law enforcement officer and has completed the

necessary juvenile officers training as prescribed by the Illinois Law Enforcement Training Standards Board, or in the case of a State police officer, juvenile officer training approved by the Director of the Department of State Police;

- (H) "Law enforcement record" includes, but is not limited to, records of arrest, station adjustments, fingerprints, probation adjustments, the issuance of a notice to appear, or any other records or documents maintained by any law enforcement agency, including the Evanston Police Department, relating to a minor suspected of committing an offense or evidence of interaction with law enforcement;
- (I) "Station adjustment" means the informal handling of an alleged offender by a juvenile police officer; and
- (J) "Petition" means the petition provided for in Sections 2-13, 3-15, 4-12 or 5-520 of the Juvenile Court Act of 1987, including any supplemental petitions thereunder in Sections 3-15, 4-12 or 5-520 of the Juvenile Court Act of 1987.

**9-18-2: EXPUNGEMENT OF JUVENILE LAW ENFORCEMENT RECORDS.**

- (A) The City of Evanston and its police department shall automatically expunge, on or before January 1 of each year, all law enforcement records relating to events occurring before an individual's 18th birthday if:
  - (1) one (1) year or more has elapsed since the date of the arrest or law enforcement interaction documented in the records;
  - (2) no petition for delinquency or criminal charges were filed with the clerk of the circuit court relating to the arrest or law enforcement interaction documented in the records; and
  - (3) six (6) months have elapsed without an additional subsequent arrest or filing of a petition for delinquency or criminal charges whether related or not to the arrest or law enforcement interaction documented in the records.
- (B) If the City and its police department are unable to verify satisfaction of conditions (2) and (3) of this subsection (A), records that satisfy condition (1) of this subsection (A) shall be automatically expunged if the records relate to an offense that if committed by an adult would not be an offense classified as Class 2 felony or higher, an offense under Article 11 of the Illinois Criminal Code of 1961 or the Illinois Criminal Code of 2012 (720 ILCS 5/11-0.1 *et seq.*), or an offense under 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Illinois Criminal Code of 1961.
- (C) The Evanston Police Department shall send written notice to the minor of the expungement of any records within sixty (60) days of automatic expungement or the date of service of an expungement order from the court, whichever applies.

- (D) In the circumstance where the Court automatically orders the expungement of juvenile court and law enforcement records upon the conditions identified in Sections 5-915(0.2)(a) and (0.3)(a) of the Juvenile Court Act of 1987, 705 ILCS 405/5-915(0.2)(a) and (0.3)(a), if the Chief of the Evanston Police Department, or his or her designee, certifies in writing that certain information is needed for a pending investigation involving the commission of a felony, that information, and information identifying the juvenile, may be retained in an intelligence file until the investigation is terminated or for one (1) additional year, whichever is sooner. Retention of a portion of a juvenile's law enforcement record does not disqualify the remainder of his or her record from immediate automatic expungement.
- (E) If a minor is arrested and no petition for delinquency is filed with the clerk of the circuit court at the time the minor is released from custody, the juvenile police officer, if applicable, or other designated person from the Evanston Police Department, shall notify verbally and in writing to the minor or the minor's parents or guardians that the minor shall have an arrest record and shall provide the minor and the minor's parents or guardians with an expungement information packet, information regarding this State's expungement laws including a petition to expunge juvenile records obtained from the clerk of the circuit court.
- (F) Nothing in this section precludes an eligible minor from obtaining expungement under Section 5-915 of the Juvenile Court Act of 1987, 705 ILCS 405/5-915 *et seq.*
- (G) Nothing in this Section shall be construed to prohibit the maintenance of information relating to an offense after the records or files concerning the offense have been expunged if the information is kept in a manner that does not enable identification of the individual. This information may only be used for anonymous statistical and bona fide research purposes.

**SECTION 3:** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 4:** This ordinance must be in full force and effect after its passage, approval, and publication in a manner provided by law.

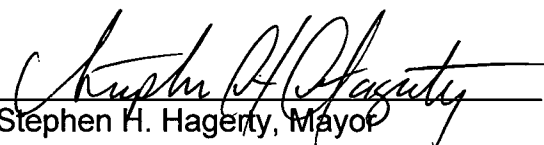
**SECTION 5:** If any provision of this ordinance or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity must not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

Introduced: May 14, 2018

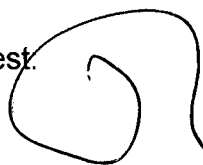
Adopted: May 14, 2018

Approved:

June 1, 2018

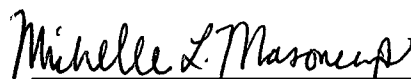
  
Stephen H. Hagerty, Mayor

Attest:



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Devon Reid, City Clerk

Approved as to form:

  
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Michelle L. Masoncup, Interim Corporation  
Counsel