

Summary of Ordinance

The purpose of this Ordinance is to revise the Lake County Code language previously enacted to utilize the provisions of Section 125.5801, Florida Statutes, related to criminal history record checks for certain County employees and appointees holding positions critical to security or public safety. The Ordinance will repeal and replace Section 2-42, Lake County Code, to reflect language more consistent with the requirements of the Florida Department of Law Enforcement and the Federal Bureau of Investigation.

Changes are shown as follows: ~~Strikethrough~~ for deletions and Underline for additions to existing Code sections. The notation “* * *” shall mean that all preceding or subsequent text remains unchanged (excluding any renumbering or relettering that might be needed).

ORDINANCE 2023-__

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LAKE COUNTY, FLORIDA; REPEALING AND REPLACING SECTION 2-42, LAKE COUNTY CODE, ENTITLED *CRIMINAL HISTORY CHECKS*; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on March 23, 2021, the Board of County Commissioners (Board) adopted Ordinance No. 2021-6, pursuant to Section 125.5801, Florida Statutes, mandating state and federal criminal history record checks of applicants for employment and appointees deemed by the Board to be critical to security or to public safety regarding any facility owned or operated by the Lake County (County); and

WHEREAS, based on further guidance from state and federal entities, it is necessary and appropriate to make the following changes to Section 2-42, Lake County Code; and

WHEREAS, the Board has determined that it is in the best interests of the County and its residents to require all appropriate and applicable background checks for all prospective County employees.

NOW THEREFORE, be it ordained by the Board of County Commissioners of Lake County, Florida, as follows:

Section 1. Legislative Findings of Fact. The foregoing recitals are hereby adopted as legislative findings of the Board of County Commissioners and are ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. Repeal and Replace. Section 2-42, Lake County Code, entitled *Criminal History Checks*, is hereby repealed and replaced to read as follows:

Sec. 2-42 Criminal ~~H~~istory Record Checks.

(a) As authorized in Section 125.5801, Florida Statutes, Lake County (County) may, in its sole discretion, require employment screening for any position of County employment or appointment which the County determines is critical to security or public safety, or for any private contractor, employee of a private contractor, vendor, repair person, or delivery person who has access to any public facility or publicly operated facility that the County determines is critical to security or public safety. Each person applying for, or continuing employment in, any such position or having access to any such facility shall also be required to be fingerprinted. The fingerprints shall be submitted to the Department of Law Enforcement for a state criminal history record check and to the Federal Bureau of Investigation for a national criminal history record check. The information obtained from the criminal history record checks conducted pursuant to this Section may be used by the County to determine an applicant's eligibility for employment or appointment, and to determine an employee's eligibility for continued employment. This Section is not intended to preempt or prevent any other background screening, including, but not limited to, criminal history background checks, that the County may lawfully undertake. Criminal History Record Checks are applicable to individuals employed in positions of employment deemed by the Board of County Commissioners to be critical to security or public safety.

~~(b) Each "position of employment" listed below, and other positions as may be added by resolutions of the Board of County Commissioners, is deemed to be critical to security or public safety. A position of employment includes each individual who is appointed to the position; and also includes each individual who will be afforded any opportunity to be a risk to security or to public safety; or who could damage or destroy any telecommunications system or major telecommunications facility or computer system or network; and provided the individual will not always be subject to continuous, direct, and immediate supervision by at least one (1) individual who had passed the background checks.~~

~~(c) Positions of Employment include, but are not limited to:~~

~~(1) County Manager and County Attorney. The County Manager, County Attorney, and all positions within the Offices of the County Manager or County Attorney.~~

~~(2) County Staff Personnel and Contractors with Access to any Security System. All individuals who have access to plans, blueprints, or other records regarding the specifics of any existing or proposed security system.~~

~~(3) Public Safety and Development Services. All Offices and all positions under Public Safety and Development Services, excluding the Office of Planning and Zoning.~~

~~(4) Public Services and Infrastructure. All Offices and all positions under Public Services and Infrastructure.~~

~~(5) Administrative Services. All Offices and all positions under Administrative Services, excluding the Office of Communications.~~

~~(6) Office of Human Resources and Risk Management. All positions under the Office of Human Resources and Risk Management.~~

~~(7) Additional Positions: Each additional position or classification added by resolution of the Board of County Commissioners.~~

- ~~(d) — Each individual who applies to be considered for employment in any of the listed positions of employment shall be fingerprinted, and those fingerprints shall be submitted to the Florida Department of Law Enforcement (for a state criminal history records check) and to the Federal Bureau of Investigation for a national criminal history records check. The information obtained from each respective criminal history record will be used to determine the applicant's eligibility for employment (or continued employment) to the respective position, or, if then employed, continued employment in any position that is required to successfully pass the respective criminal history record checks.~~
- ~~(e) — Other positions of employment (or appointment) deemed by the Board of County Commissioners to be critical to security or to public safety can be added to this Section by resolution(s) adopted from time to time by the Board of County Commissioners.~~
- ~~(f) — Contracts can mandate that each such position deemed to be critical to security or public safety shall undergo these criminal history records checks, and information obtained from, or because of, any such records check can be the sole basis to place limitations on the places (locations) where such individuals shall be denied all physical access at all times.~~
- ~~(g) — This Section shall be liberally construed. This Section does not affect any law, any other ordinance, or any rule or regulation related to criminal history records checks except that pursuant to Section 125.5801, Florida Statutes, and Subsection 112.011 (2)(c), Florida Statutes, each individual applying for County employment (or who is then employed by the County) in a position that is then deemed by this Section (or resolution adopted by the Board under this Section) to be critical to security or to public safety, is not protected by Section 112.011, Florida Statutes, and, therefore, such individual can be denied employment (or if then already employed, the employment can be terminated) if that individual has been or is convicted of any felony or any misdemeanor of the first degree, whether or not the conviction is related to that employment.~~

Section 3. Inclusion in Code. It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Lake County Code and that the sections of this Ordinance may be renumbered or relettered and the word “ordinance” may be changed to “section”, “article”, or such other appropriate word or phrase to accomplish such intentions.

Section 4. Severability. If any section, sentence, clause, or phrase or word of this Ordinance is for any reason held or declared to be invalid, unconstitutional, inoperative or void by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portion of this Ordinance; and it shall be construed to have been the Commissioners’ intent to pass this Ordinance without such unconstitutional, invalid or inoperative part therein; and the remainder of this Ordinance, after the exclusion of such part or parts shall be deemed and held to be valid, as if such parts had not been included herein; or if this Ordinance or any provisions thereof shall be held inapplicable to any person, groups of persons, property, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other person, property or circumstances.

Section 5. Filing with the Department of State. The Clerk shall be and is hereby directed forthwith to send an electronic copy of this Ordinance to the Secretary of State for the State of Florida in accordance with Section 125.66, Florida Statutes.

Section 6. Effective Date. This Ordinance shall become effective as provided for by law.

ENACTED this day of _____, 2023.

FILED with the Secretary of State the ____ day of _____, 2023.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF LAKE COUNTY, FLORIDA

Gary J. Cooney, Clerk
Board of County Commissioners of
Lake County, Florida

Kirby Smith, Chairman

This _____ day of _____, 2023.

Approved as to form and legality:

Melanie Marsh, County Attorney