

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 2 OF THE PALM BEACH COUNTY CODE (ORDINANCE NO. 2003-030, AMENDED BY ORDINANCE NO. 2008-007); PERTAINING TO CRIMINAL HISTORY RECORD CHECKS; AMENDING SECTION 2-373 OF THE PALM BEACH COUNTY CODE (DEFINITIONS); AMENDING SECTION 2-374 OF THE PALM BEACH COUNTY CODE (CRITICAL FACILITIES DETERMINATION); AMENDING SECTION 2-375 OF THE PALM BEACH COUNTY CODE (CRIMINAL HISTORY RECORD CHECKS); AMENDING SECTION 2-376 OF THE PALM BEACH COUNTY CODE (ALTERNATIVE COMPLIANCE); PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Palm Beach County ("Board") adopted the Palm Beach County Criminal History Record Check Ordinance (Ordinance No. 2003-030, amended by Ordinance No. 2008-007) on August 19, 2003 providing that it become effective on October 1, 2003; and

WHEREAS, the Palm Beach County Criminal History Record Check Ordinance established the County's program for conducting criminal history record checks on Contractors, vendors, repair and delivery persons who seek unescorted access to County facilities determined to be critical to public safety or security and established a list of Disqualifying Criminal Offenses for those facilities; and

WHEREAS, since that time, legal requirements for securing access to criminal justice information have been established and it is necessary to implement criminal history record checks for facilities that are critical to criminal justice information security; and

WHEREAS, the Criminal Justice Information Services Division of the Federal Bureau of Investigation (FBI) has adopted and implemented the Criminal Justice Information Services Security Policy that defines requirements for conducting criminal history record checks in facilities with access to criminal justice information and further assigns responsibility for performing criminal history record checks in such facilities to the Florida Department of Law Enforcement and local law enforcement agencies; and

WHEREAS, the Board of County Commissioners desires to establish Criminal Justice Information Facilities and the corresponding Disqualifying Criminal Offenses; and

WHEREAS, the Board of County Commissioners desires to amend the Criminal History Record Check Ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

50 **Section 1. Title**

51 This Ordinance shall be known and may be cited as the “Palm Beach County Criminal
52 History Record Check Ordinance.”

53

54 **Section 2. Authority**

55 This Ordinance is enacted pursuant to the authority vested in the County by Section
56 125.5801, Florida Statutes.

57

58 **Section 3.** Section 2-373 of the Palm Beach County Code is hereby amended as
59 follows:

60 **Definitions**

61 A. “Applicant” means the individual who applies for a criminal history record check.

62 B. “Contractor” means any natural person who is not employed by the County and
63 provides or delivers goods or services for, to or on behalf of the County, which shall include, but
64 shall not be limited to, employees and subcontractors of contractors, unpaid contractors or
65 volunteers, vendors, repair persons and delivery persons. “Contractor” shall also mean any non-
66 governmental tenant of a County-owned building, except tenants of County general aviation
67 airports, including the employees and subcontractors of such tenants. The term “Contractor” shall
68 not include any local government, State or Federal employees, or any persons employed by any
69 mail, courier, postal or other similar delivery services.

70 C. “County” means the Board of County Commissioners of Palm Beach County and
71 its authorized representatives.

72 D. “Criminal History Record Check” means a fingerprint-based State and national
73 criminal history record check.

74 E. “Criminal Justice Information” (CJI) includes the FBI CJIS and FDLE provided
75 data necessary for law enforcement and civil agencies to perform their missions including, but
76 not limited to, biometric, identity history, biographic, property and case/incident history data.

77 F. “Criminal Justice Information Facility” (CJI Facility) means any facility or
78 portion thereof owned or leased by the County which houses CJI and which is determined by
79 resolution of the Board pursuant to Section 4 of this Ordinance to be critical to the security of
80 CJI.

81 G. “Criminal Justice Information Services Division” (FBI CJIS) means the Criminal
82 Justice Information Services Division of the FBI responsible for the collection, warehousing, and
83 timely dissemination of relevant CJI to the FBI and to qualified law enforcement, criminal
84 justice, civilian, academic, employment, and licensing agencies.

85 H. “Critical Facility” means those facilities or areas owned, operated or leased by the
86 County that have been determined by resolution of the Board to be critical to security or public
87 safety pursuant to Section 4 of this Ordinance.

88 I. “Disqualifying Criminal Offense” with respect to access to a Critical Facility
89 means a conviction of or a plea of nolo contendere or guilty to any of those criminal offenses
90 listed in Appendix “A” to this Ordinance in any jurisdiction during the ten (10) years prior to the
91 date of the criminal history record check. Notwithstanding the foregoing, any conviction for

92 which a full pardon has been granted or any adjudication of delinquency shall not be considered
93 a disqualifying criminal offense.

94 J. "Disqualifying Criminal Offense" with respect to access to a CJI Facility means
95 any of those offenses identified in Appendix "B" to this Ordinance and as determined by the
96 Criminal Justice Information Services (CJIS) Security Policy, version 5.2, dated August 9, 2013,
97 as may be amended and updated from time to time.

98 K. "Existing Contractor" means a Contractor who required access to a CJI Facility
99 prior to the effective date of this Ordinance and will continue to require access to the CJI Facility
100 after the effective date of this Ordinance.

101 L. "Facilities Development & Operations" means the Facilities Development &
102 Operations Department of the County.

103 M. "Federal Bureau of Investigation" (FBI) means the Federal Agency established in
104 Title 28 of the United States Code (U.S. Code), Section 533.

105 N. "Florida Department of Law Enforcement" (FDLE) means the Florida agency
106 created by Section 20.201, F.S. which serves as the central repository of criminal justice
107 information for the State of Florida and operates under the authority of Section 943.05, F.S. and
108 Chapter 11C, F.A.C.

109 O. "New Contractor" means a Contractor who will require access to a Critical
110 Facility or a CJI Facility for the first time on or after the effective date of this Ordinance.

111 P. "Sheriff's Office" means the Palm Beach County Sheriff's Office.

112 Q. "State Attorney's office" means the State Attorney of the 15th Judicial Circuit.

113 R. "Volunteer" means a person who is providing or donating goods or services for,
114 to, or on behalf of the County or for any local government, State or Federal agency or office.

115

116 **Section 4.** Section 2-374 of Palm Beach County Code is hereby amended as follows:

117 **Facilities Determination**

118 A. The Board shall identify Critical Facilities by resolution including those facilities or
119 areas owned, operated or leased by the County that the Board determines to be critical to security
120 or public safety which resolution may be amended, replaced, or supplemented by the Board from
121 time to time.

122 B. The Board shall identify CJI Facilities by resolution including those facilities or areas
123 owned, operated or leased by the County that the Board determines to be critical to the security
124 of CJI which resolution may be amended, replaced, or supplemented by the Board from time to
125 time.

126

127 **Section 5.** Section 2-375 of Palm Beach County Code is hereby amended as follows:

128 **2-375.1 Criminal History Record Checks for Critical Facilities**

129 A. All Contractors shall be required to undergo a criminal history record check
130 conducted by or on behalf of the County in order to retain or be granted unescorted access to any
131 Critical Facility. New Contractors shall be required to undergo a criminal history check prior
132 to being granted unescorted access to any Critical Facility. Any Contractor found to have a
133 disqualifying criminal offense or who fails to provide the information necessary to complete a

134 criminal history record check shall, when acting in his or her capacity as a Contractor for or on
135 behalf of the County, be denied access to Critical Facilities or be required to be accompanied by
136 an escort designated by the County in Critical Facilities. Any Contractor found to have an arrest
137 for any offense involving juveniles shall, when acting in his or her capacity as a Contractor for
138 on behalf of the County, be denied access to Critical Facilities where children are located
139 including aquatic centers, Head Start facilities, community centers and the High Ridge Family
140 Center. Any Contractor found to have an arrest for any offense involving animals shall, when
141 acting in his or her capacity as a Contractor for or on behalf of the County, be denied access to
142 Critical Facilities where animals are located including animal care and control facilities. The
143 decision of whether to deny access or require an escort in Critical Facilities shall be at the
144 discretion of the County.

145 B. Prior to an Applicant submitting a request for a criminal history record check for
146 access to a Critical Facility, the County shall notify each applicant to be fingerprinted that his or
147 her fingerprints will be sent to the State Department of Law Enforcement for a state criminal
148 history record check and to the Federal Bureau of Investigation for a national criminal history
149 record check.

150 C. The County shall notify any applicant found to have a Disqualifying Criminal
151 Offense in writing that he or she has been found to have a Disqualifying Criminal Offense and
152 will be denied access to Critical Facilities or be required to be accompanied by an escort
153 designated by the County in Critical Facilities unless the Contractor provides the County with
154 verifiable evidence that he or she does not have a Disqualifying Criminal Offense. The
155 notification shall also state that the Contractor has the right to (1) obtain a copy of his or her
156 criminal history records; (2) to challenge the completeness and accuracy of the criminal history
157 records pursuant to State and Federal law; and (3) to request a correction, change or update to the
158 criminal history records pursuant to State and Federal law. The written notification, sent by
159 certified mail, shall not include specific information regarding the Contractor's criminal history
160 records or the nature of the disqualifying criminal offense. The County shall verify the identity
161 of the Contractor prior to releasing the criminal history records to the Contractor.

162 D. The County shall notify any applicant found to have an outstanding warrant in
163 writing by mail. The notification shall identify the jurisdiction of the outstanding warrant so that
164 the applicant may make arrangements to address the outstanding warrant. The County shall also
165 notify the jurisdiction which issued the warrant that the warrant appeared on the criminal history
166 record check of the applicant.

167 E. The County shall notify any applicant in writing found to have a prior arrest,
168 without a disposition on record, for the criminal offenses on Appendix "A" to this Ordinance. If
169 the arrest still has no disposition six months after the date of the notice to the Contractor, the
170 Contractor shall be denied access to Critical Facilities or be required to be accompanied by an
171 escort designated by the County in Critical Facilities until the Contractor provides the County
172 with verifiable evidence that the prior arrest has been resolved without a conviction or plea of
173 nolo contendere or guilty to any of the criminal offenses listed on Appendix "A" to this
174 Ordinance.

175 F. The County Administrator shall establish procedures for the implementation of
176 this Ordinance, which may include, but shall not be limited to, procedures for obtaining and
177 processing criminal history record check information for Critical Facilities, standardizing
178 information to be included in solicitations, procurement documents and contracts issued by the
179 County, and notifying Contractors of the requirements of this Ordinance.

180 G. Notwithstanding any provision of this Ordinance to the contrary, the access
181 restrictions set forth in this Ordinance shall only apply when a person is acting in his or her
182 capacity as a Contractor for or on behalf of the County.

183 H. Nothing in this Ordinance shall be construed as prohibiting or preventing the
184 County from conducting any other background screening that the County may lawfully
185 undertake.

186 **2-375.2 Criminal History Record Checks for CJI Facilities**

187 A. The Sheriff's Office shall be the implementing office for conducting criminal
188 history records checks on Contractors when the access requirement is a CJI Facility. All criminal
189 history records checks conducted for this purpose of unescorted access and pursuant to this
190 Ordinance shall be made according to the Criminal Justice Information Services (CJIS) Security
191 Policy, version 5.2, dated August 9, 2013, as may be amended and updated from time to time.

192 B. All Existing Contractors and all New Contractors shall be required to undergo a
193 criminal history record check conducted by the Sheriff's Office in order to retain or be granted
194 unescorted access to any CJI Facility.

195 C. Any Applicant found to have a Disqualifying Criminal Offense, or who fails to
196 provide the information necessary to complete a criminal history record check, shall be denied
197 access to CJI Facilities or be required to be accompanied by an escort designated by the Sheriff's
198 Office. The decision of whether to deny access or require an escort in CJI Facilities shall be at
199 the sole discretion of the Sheriff's Office.

200 D. The Sheriff's Office, in conjunction with FDLE when required and/or determined
201 to be appropriate by the Sheriff's Office, shall have the ability to review any misdemeanor
202 conviction, pending charge/arrest and/or warrant to determine applicability of the conviction,
203 charge and/or warrant to the access being requested. The Sheriff's Office, in its sole discretion,
204 may grant access to, or provide for continued access, depending on the facts presented. There is
205 no review of a Disqualifying Criminal Offense involving a felony.

206 E. The Sheriff's Office shall establish procedures for the implementation of its
207 responsibilities pursuant to this Ordinance, including but not limited to, procedures for
208 processing and obtaining criminal history record check information, procedures for notifying
209 Applicants who are found to have disqualifying offenses, procedures for presenting verifiable
210 evidence that a Contractor does not have a disqualifying offense, and procedures for notifying
211 potential Contractors of the requirements of this Ordinance.

212 F. Notwithstanding any provision of this Ordinance to the contrary, the access
213 restrictions set forth in this Ordinance shall only apply when a person is acting in his or her
214 capacity as a Contractor for or on behalf of the County.

215 G. Nothing in this Ordinance shall be construed as prohibiting or preventing the
216 Sheriff's Office from conducting any other background screening that the Sheriff may lawfully
217 undertake.

218

219 **Section 6.** Section 2-376 of Palm Beach County Code is hereby amended as follows:

220 **Alternative Compliance**

221 A Contractor shall be exempt from the requirements of this Ordinance if:

222 (1) the Contractor is subject to and in compliance with the criminal history record
223 check requirements of Title 49 Code of Federal Regulations Part 1500 et al., as may be
224 amended from time to time or any successor regulation or other federal regulation
225 establishing criminal history record check requirements for public-use airports; or

226 (2) the Contractor is subject to and in compliance with the criminal history record
227 check requirements of this Ordinance for access to CJI Facilities if the access requirement
228 is for Critical Facilities; or

229 (3) the Contractor is subject to and in compliance with the criminal history record
230 check requirements of any other federal, state or local law, which is equal to or more
231 stringent than the requirements of this Ordinance; or

232 (4) the Contractor is required by County procurement policy or document to maintain
233 a Florida Security Guard license "D" or "G" but only for the year that the State performs the
234 criminal history records check and only if the access requirement is for Critical Facilities,
235 but such Contractor must comply in any other year; or

236 (5) the person is a volunteer to the Palm Beach County Sheriff's Office, Palm Beach
237 County State Attorney's Office or the Clerk & Comptroller of Palm Beach County's Office
238 and the access requirement is for Critical Facilities. These volunteers are not considered
239 Contractors and are not subject to the requirements of this Ordinance.

240

241 **Section 7. Enforcement**

242 This Ordinance shall be enforceable by all remedies available at law, but shall not be
243 enforced as a misdemeanor in accordance with Section 125.69(1), Florida Statutes.

244

245 **Section 8. Repeal of Laws in Conflict**

246 All local laws and ordinances in conflict with any provisions of this Ordinance are hereby
247 repealed to the extent of such conflict.

248

249 **Section 9. Severability**

250 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any
251 reason held by the Court to be unconstitutional, inoperative, or void, such holding shall not affect
252 the remainder of this Ordinance.

253

254 **Section 10. Inclusion in the Code of Laws and Ordinances**

255 The provisions of this Ordinance shall become and be made a part of the Code of Laws
256 and Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be

257 renumbered or relettered to accomplish such, and the word "ordinance" may be changed to
258 "section", "article", or other appropriate word.

259

260 **Section 11. Effective Date**

261 The provisions of this Ordinance shall become effective upon filing with the Department
262 of State.

263

264 **APPROVED and ADOPTED** by the Board of County Commissioners of Palm Beach
265 County, Florida, on this the 22nd day of October, 2013.

266

267

268 SHARON R. BOCK,
269 CLERK & COMPTROLLER,

PALM BEACH COUNTY, FLORIDA BY ITS
BOARD OF COUNTY COMMISSIONERS

270

271

272

273

274

275

276

277

278

279

280

281

282

283

284

285

286

287

288

289

By:  Deputy Clerk   Steven L. Abrams, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By:  ASSISTANT COUNTY ATTORNEY

Filed with the Department of State on this 30th day of October, 2013.

Appendix A
Disqualifying Offenses in Critical Facilities

- 290
- 291
- 292
- 293 1. Carrying a weapon or explosive into building where same is posted as prohibited
- 294 2. Destruction or vandalism to a public buildings or property
- 295 3. Conveying false information and threats
- 296 4. Murder
- 297 5. Assault with the intent to murder.
- 298 6. Espionage
- 299 7. Sedition
- 300 8. Kidnapping or hostage taking
- 301 9. Treason
- 302 10. Rape or aggravated sexual abuse
- 303 11. Unlawful possession, use, sale, distribution or manufacture of an explosive, weapon or
- 304 weapon of mass destruction
- 305 12. Terrorism
- 306 13. Hate crimes
- 307 14. Extortion
- 308 15. Armed or felony unarmed robbery
- 309 16. Distribution of, or intent to distribute, a controlled substance
- 310 17. Felony arson
- 311 18. Felony involving a threat
- 312 19. Felony involving:
- 313 A. Willful destruction of property
- 314 B. Importation or manufacture of a controlled substance
- 315 C. Burglary
- 316 D. Theft
- 317 E. Dishonesty, fraud or misrepresentation
- 318 F. Possession or distribution of stolen property
- 319 G. Aggravated assault
- 320 H. Bribery
- 321 I. Illegal possession of a controlled substance punishable by a maximum term of
- 322 imprisonment of more than one year
- 323 J. Violence at any public airport
- 324 K. Information technology crimes including, but not limited to, unlawful use of
- 325 protected information or hacking
- 326 20. Conspiracy or attempt to commit any of the criminal acts listed in this Appendix "A"
- 327 21. Any offense involving animals when the access requirement is a Critical Facility/area
- 328 within an animal care and control facility.
- 329 22. Any offense involving juveniles when the access requirement is an aquatic center,
- 330 gymnasium, Head Start facility, community center or High Ridge Family Center
- 331 23. Any felony involving violence.
- 332 24. Any offense against a law enforcement officer.
- 333
- 334
- 335
- 336

337
338
339
340
341
342
343
344
345
346
347
348
349

APPENDIX B

DISQUALIFYING OFFENSES
IN CRIMINAL JUSTICE INFORMATION FACILITIES

1. All felonies
2. All misdemeanors
3. Any pending charge/and or arrest
4. Any warrant.

STATE OF FLORIDA, COUNTY OF PALM BEACH
I, SHARON R. BOCK, Clerk & Comptroller certify
this to be a true and correct copy of the original
filed in my office on OCT 22 2013
dated at West Palm Beach, Fla on 10/31/13
By: [Signature]
Deputy Clerk

