

ORDINANCE NO. 2022-24

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING CHAPTER 10, "PERSONNEL", ARTICLE I, "IN GENERAL", TO CREATE A NEW SECTION 10-1 TO BE ENTITLED, "STATE AND NATIONAL CRIMINAL HISTORY CHECKS FOR CERTAIN MUNICIPAL EMPLOYEES"; TO CODIFY REQUIREMENTS FOR CRIMINAL HISTORY RECORDS CHECKS FOR PERSONNEL IN THE DEPARTMENT OF FIRE RESCUE WHICH THE GOVERNING BODY OF THE MUNICIPALITY FINDS ARE CRITICAL TO SECURITY OR SAFETY; TO CODIFY THE REQUIREMENT FOR CRIMINAL HISTORY RECORDS CHECKS FOR CERTAIN MUNICIPAL EMPLOYEES AND APPOINTEES WHICH THE CITY COUNCIL OF GREENACRES, FLORIDA, FINDS IS CRITICAL TO SECURITY OR SAFETY; PROVIDING FOR SEVERABILITY, CODIFICATION, REPEAL OF CONFLICTING ORDINANCES, AND AN EFFECTIVE DATE

WHEREAS, it is common practice, appropriate, and proper to require general background checks for prospective City employees; and

WHEREAS, the City of Greenacres ("City") currently conducts such background checks for firefighter personnel through the Florida Department of Law Enforcement's (FDLE) Civil Workflow Control System (CWCS), which enables the City to conduct fingerprint-based state and national criminal history record checks under the authority of Florida Statute Section 633.412; and

WHEREAS, the Federal Bureau of Investigation (FBI) has advised FDLE that the City will no longer be authorized to submit applicants under the authority of Florida Statute Section 633.412 effective May 1, 2023; and

WHEREAS, the City desires to continue its current level of background screening for personnel in the Department of Fire Rescue; and

WHEREAS, Florida Statute Section 166.0442 provides authority to conduct such screening; and

WHEREAS, Florida Statute Section 166.0442 authorizes municipalities, by ordinance, to require criminal history records checks for the following any position of municipal employment or appointment, whether paid, unpaid, or contractual, which the governing body of the municipality finds is critical to security or public safety; and

WHEREAS, Florida Statute Section 166.0442 requires that criminal history record checks include fingerprinting the applicable individuals, and having the individuals' fingerprints submitted to FLDE for a state criminal history record check which are then forwarded by FDLE to the FBI for a national criminal history record check; and

WHEREAS, considering the City's past practice and continuing need to require background screening for prospective employees and certain individuals, it is appropriate for the City to require criminal history record checks for the personnel in the Department of Fire Rescue as authorized by Florida Statute Section 166.0442(1); and,

WHEREAS, the City Council has determined it is in the best interests of the City and serves a valid public purpose to require state and national criminal history record checks for such personnel as set forth in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, THAT:

Section 1: Recitals. That the foregoing recitals are hereby fully incorporated herein by reference as legislative findings of the City Council of the City of Greenacres, Florida.

Section 2: That Chapter 10, entitled, “Personnel “Article I, entitled “In General”, is hereby amended by creating a new section 10-1 to be entitled, “State and National Criminal History Checks for Certain Municipal Employees” which new section shall state as follows:

Sec. 10-1. – State and National Criminal History Checks for Certain Municipal Employees.

- (a) Pursuant to Florida Statute Section 166.0442, as amended from time to time, state and national criminal history record checks shall be required for personnel in the Department of Fire Rescue.
- (b) All prospective personnel in the Department of Fire Rescue shall be required to authorize the City to conduct all appropriate background screening procedures as a condition of employment with the City, including but not limited to obtaining fingerprints.
- (c) Fingerprints obtained pursuant to Florida Statutes Section 166.0442 shall be submitted to FDLE for state criminal history record check, which shall be forwarded by FDLE to the FBI for a national criminal history record check, or as in accordance with FDLE and FBI procedures as amended from time to time.
- (d) The information obtained for each criminal history record check conducted under this section shall be used to determine a person’s eligibility for employment and eligibility for continued employment.
- (e) This section is not intended to preempt or prevent any other background screening, including but not limited to, criminal history background checks that the City may lawfully undertake.

Section 3: Severability. That if any section, part of a section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holdings of invalidity shall not affect the remaining portion of this Ordinance and it shall be construed to have been the legislative intent to pass the 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 to be held valid as if such part or parts had not been included therein, or if this Ordinance or any of the provisions thereof shall be held inapplicable to any person, group of persons, property, kind of property, circumstances, or set of circumstances, such holdings shall not affect the applicability thereof to any other person, property or circumstances.

Section 4: Repeal of Conflicting Ordinances. All ordinances or parts thereof conflicting with or inconsistent with the provisions of this Ordinance are repealed.

Section 5: Inclusion in the Code. That the provision of this Ordinance shall be made a part of the Code of Ordinances of the City of Greenacres, Florida; that the Section(s) of this Ordinance may be renumbered or re-lettered to accomplish such intention, and that the word "Ordinance" may be changed to "Section", "Article" or another word.

Section 6: Effective Date. That the provisions of this Ordinance shall take effect upon adoption.

Passed on the first reading this 1st day of August 2022.

PASSED AND ADOPTED on this second reading this 15th day of August 2022.

Joel Flores, Mayor

Attest:

Quintella Moorer, City Clerk

John Tharp, Deputy Mayor

Peter Noble, Council Member, *District II*

Judith Dugo, Council Member, *District III*

Susy Diaz, Council Member, *District IV*

Paula Bousquet, Council Member, *District V*

Approved as to Form and Legal Sufficiency:

Glen J. Torcivia, City Attorney