

MONROE COUNTY COURTHOUSE
500 WHITEHEAD STREET, SUITE 101
KEY WEST, FLORIDA 33040
TEL. (305) 294-4641
FAX (305) 295-3663

BRANCH OFFICE:
MARATHON SUB COURTHOUSE
3117 OVERSEAS HIGHWAY
MARATHON, FLORIDA 33050
TEL. (305) 289-6027
FAX (305) 289-6025



**CLERK OF THE CIRCUIT COURT
MONROE COUNTY**

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March 5, 2013

BRANCH OFFICE:
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GOVERNMENT CENTER
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FAX (305) 852-7146

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PLANTATION KEY, FLORIDA 33070
TEL. (305) 852-7145
FAX (305) 853-7440

Ms. Liz Cloud, Program Administrator
Administrative Code & Weekly
R.A. Gray Building
500 S Bronough Street
Tallahassee FL 32399-0250

Via Certified Mail 7012 1010 0003 4990 5118

Dear Ms. Cloud,

Enclosed please find a certified copy of the following Ordinance No. 007-2013 creating new section 2-61 of the Monroe County Code, establishing requirements and procedures for fingerprinting and background security screening for certain applicants, existing employees, appointees and independent contractors in security sensitive positions pursuant to Florida Statutes Section 125.5801.

This Ordinance was adopted by the Monroe County Board of County Commissioners at a Regular Meeting, held in formal session, on February 20, 2013. Please file for the record. Should you have any questions please feel free to contact me at (305) 295-3130.

Respectfully submitted,

Amy Heavilin, CPA,
Clerk of the Circuit Court
and ex officio Clerk of the
Board of County Commissioners

by: *Pamela G. Hancock, D.C.*

cc: County Attorney *via e-mail*
Municipal Code Corporation
BOCC
File

ORDINANCE NO. 007 -2013

AN ORDINANCE OF MONROE COUNTY, FLORIDA,
CREATING NEW SECTION 2-61 OF THE MONROE
COUNTY CODE; ESTABLISHING REQUIREMENTS AND
PROCEDURES FOR FINGERPRINTING AND
BACKGROUND SECURITY SCREENING FOR CERTAIN
APPLICANTS, EMPLOYEES, APPOINTEES AND
CONTRACTORS IN SECURITY SENSITIVE POSITIONS
CRITICAL TO SECURITY OR PUBLIC SAFETY; MAKING
RELATED FINDINGS; PROVIDING FOR SEVERABILITY;
FOR PROVIDING FOR INCLUSION IN THE MONROE
COUNTY CODE; AND PROVIDING AN EFFECTIVE
DATE.

WHEREAS, Monroe County is authorized pursuant to Section 125.5801 of the Florida Statutes to adopt an ordinance requiring employment screening for any position of county employment or appointment which the governing body of the county finds is critical to security or public safety; and

WHEREAS, by adopting Florida Statute § 125.5801, the Florida legislature has assisted county governments in their efforts to ensure that county applicants, personnel, contractors, and other appointees who fill positions that the County deems critical to security or public safety have appropriate backgrounds to work in the positions; and

WHEREAS, Monroe County feels that it is advantageous to have heightened screening for prospective employees and also to conduct periodic background checks on current employees in certain security-sensitive positions; and

WHEREAS, the Board of County Commissioners finds that it is in the County's best interests to require applicants, employees and appointees to these positions to be screened for criminal history on both a state and federal level as provided in Section 125.5801.

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Monroe County, Florida, as follows:

SECTION 1. The Board of County Commissioners hereby finds that any position held by an employee or contractor that has physical access to any building or part of building owned by the County and occupied by law enforcement, the judiciary, fire rescue personnel, or

emergency management services is critical to security and public safety. The Board of County Commissioners further finds that any position held by an employee or contractor that has the ability to access information technology systems or electronic systems used by law enforcement, the judiciary, fire rescue personnel, and emergency management services is also critical to security and public safety. As used herein, the terms “information technology systems” and “electronic systems” include, but are not limited to, computers; telephones; all other means of telecommunications; electronically-controlled security systems.

SECTION 2. A new section 2-61 of the Monroe County Code is hereby created to read as follows:

Section 2-61. Criminal background screening for certain safety and security critical positions.

- (a) **Definitions.** The following words, terms and phrases when used in this section shall have the meanings ascribed to them in this section.

Applicant means a person who has applied for a position as an employee or contractor.

Appointee means a person who is appointed to a position by the governing body of the County, including but not limited to positions on advisory boards.

Contractor means a person who is not employed by the County but who provides goods or services for, to or on behalf of the County, pursuant to contract and includes employees of a contractor, vendors, repair person or delivery person who has access to a public facility or publicly operated facility that the governing body finds is critical to security or public safety..

County shall mean the Board of County Commissioners of Monroe County, Florida.

Criminal History Record Check shall mean a fingerprinted-based State and federal criminal history record check.

Critical Facility shall mean those facilities or areas owned, operated or leased by the County that have been determined by resolution of the Board to be critical to security or public safety that are occupied by law enforcement, the judiciary, fire rescue personnel, and emergency management services.

Disqualifying Criminal Offense means a conviction or plea of nolo contendere or guilty to any of the criminal offenses listed in attached Appendix A, for which there has been a release of sanctions (e.g., incarceration) within ten (10) years prior to the date of the criminal history record check. Notwithstanding the foregoing, any conviction for which a full pardon has been granted or any adjudication of delinquency shall not be considered a disqualifying criminal offense.

- (b) All employees and independent contractors, current and prospective, who are hired or appointed to any position with physical, electronic, or information technology access to any facility owned and/or operated by the County and occupied by law enforcement, the judiciary, fire rescue personnel, or emergency management services, must undergo employment screening which shall include being fingerprinted and having said fingerprints forwarded to the Florida Department of Law Enforcement and the Federal Bureau of Investigation for purposes of obtaining state and federal criminal history record checks respectively. Said employment screenings shall take place prior to initial employment; prior to transfer of an existing employee or appointee into a position covered by this section; and not less than once every two (2) years while the individual occupies the position. The information obtained from the criminal history check may be used to (1) determine an applicant's eligibility for employment or appointment, (2) to determine an individual's eligibility for continued employment or appointment, and (3) determine the individual's eligibility for access to the public facility. All existing employees, applicants, appointees and contractors are required to undergo a criminal history record check within thirty (30) days of the effective date of this ordinance.
- (c) Prior to submitting a request for a criminal history record check pursuant to this ordinance the County shall notify each individual to be fingerprinted that his or her fingerprints will be sent to the Florida 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.
- (d) The County shall notify any individual found to have a disqualifying criminal offense in writing that he or she has been found to have a disqualifying criminal offense and will be denied access to critical facilities unless the individual provides the County with verifiable evidence within ten (10) working days that he or she does not have a disqualifying criminal offense. The notification shall also state that the individual has the right to (1) obtain a copy of his or her criminal history background records; (2) challenge the completeness and accuracy of the criminal history records pursuant to state and federal law; and (3) request a correction, change or update to criminal history records pursuant to state or federal law.
- (e) The County shall notify any applicant found to have a prior arrest, without a disposition on the record, for the criminal offenses listed in this section. If the arrest still has no disposition six months after the date of delivery of the notice to the individual, the County may deny access to the public facilities deemed to be critical to public safety or security until such time as the arrest is resolved without a conviction or plea of nolo contendere or guilty. An arrest for which no disposition information is available shall not be considered as favorably resolved.

- (f) The County Administrator may establish procedures for implementation of this ordinance, which may include, but not be limited to, procedures for obtaining and processing criminal history record check information, standardizing information to be included in requests for competitive solicitation issued by the County, and notifying employees, appointees, applicants and contractors of the requirements of this ordinance.
- (g) Notwithstanding any provision of this ordinance to the contrary, the access restrictions set forth in this ordinance shall only apply when a person is acting in his or her capacity as an employee, appointee or contractor on behalf of the County.
- (h) Nothing in this ordinance shall be construed as prohibiting or preventing the County from conducting any other background screening that the County may lawfully undertake.

SECTION 3. SEVERABILITY. Should any provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this Ordinance as whole, or any part thereof, other than the part declared to be invalid. If this ordinance or any provision thereof shall be held to be inapplicable to any person, property or circumstances, such holding shall not affect its applicability to any other person, property or circumstances.

SECTION 4. CONFLICT WITH OTHER ORDINANCES. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of said conflict.

SECTION 5. INCLUSION IN THE CODE OF ORDINANCES. The provisions of this Ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an addition or amendment thereto, and shall be appropriately renumbered if necessary to conform to the uniform numbering system of the code.

SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect upon filing with the Department of State as provided in Section 125.66(2), Florida Statutes.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida,
at a regular meeting of said Board held on the 20th day of Feb., 2013.

Mayor Neugent	<u>Yes</u>
Mayor Pro Tem Carruthers	<u>Yes</u>
Commissioner Kolhage	<u>Yes</u>
Commissioner Rice	<u>Yes</u>
Commissioner Murphy	<u>Yes</u>

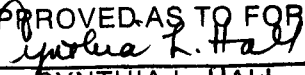
(SEAL)

Attest: AMY HEAVILIN, Clerk

By 
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By 
Mayor/Chairperson

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:

CYNTHIA L. HALL
ASSISTANT COUNTY ATTORNEY
Date 2-6-2013

FILED FOR RECORD
2013 MAR -5 PM 12:17

CLERK CIR. CL.
MONROE COUNTY, FL

Appendix A

Disqualifying Criminal Offenses

Carrying a weapon or explosive into building where same is posted as prohibited
Conveying false information and threats
Assault or battery with intent to murder
Sedition
Treason
Mayhem
Terrorism
Extortion
Distribution of or intent to distribute a controlled substance
Felony involving a threat
Destruction or vandalism to public building or property
Murder
Espionage
Kidnapping or hostage taking
Embezzlement
Rape or aggravated sexual abuse
Unlawful possession, use, sale, or distribution or manufacture of an explosive,
weapon, or weapon of mass destruction
Hate crimes
Armed or felony unarmed robbery
Felony arson
Forcible felonies, as defined at F.S. 776.08
Offenses enumerated at F.S. 907.041(4)
Offenses which cannot be expunged or sealed, set out in the first paragraphs of
F.S. 943.0585 and 943.059
-----Or other similar offenses in another jurisdiction

2012 1010 0003 4990 5118

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Sent to Administrative Code and Weekly
Street, Apt. No. B. A. Gray Building
or PO Box No. 00 South Bronough Street
City, State, Zip Tallahassee, Florida 32399-0250

PS Form 3800, August 2006 See Reverse for Instructions

Ordinance 007-2013

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Program Administrator
Administrative Code and Weekly
R.A. Gray Building
500 South Bronough Street
Tallahassee, Florida 32399-0250

Ordinance 007-2013

2. Article Number

(Transfer from service label)

7012 1010 0003 4990 5118

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X DEPT. OF STATE

☐ Agent

☐ Addressee

B. Received by (Printed Name)

MAR 11 2013

C. Date of Delivery

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

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4. Restricted Delivery? (Extra Fee)

☐ Yes



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

March 11, 2013

Honorable Amy Heavilin
Clerk of the Circuit Court
Monroe County
500 Whitehead Street, Suite 101
Key West, Florida 33040

Attention: Pamela G. Hancock, Deputy Clerk

Dear Ms. Heavilin:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated March 5, 2013 and certified copy of Monroe County Ordinance No. 007-2013, which was filed in this office on March 11, 2013.

Sincerely,

A handwritten signature in cursive script that reads "Liz Cloud".

Liz Cloud
Program Administrator

LC/elr

FILED FOR RECORD
2013 MAR 19 AM 10:17
CLERK CIR. CT.
MONROE COUNTY, FL