

ORDINANCE NO. _____

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF NAPA COUNTY,
STATE OF CALIFORNIA, AMENDING PORTIONS OF SECTION 2.100.181
OF THE NAPA COUNTY CODE AS IT RELATES TO FINGERPRINTS AND
BACKGROUND CHECKS FOR EMPLOYEES, INTERNS, AND
VOLUNTEERS WHO HAVE ACCESS TO CRIMINAL OFFENDER
RECORD INFORMATION AND FEDERAL TAX INFORMATION**

The Board of Supervisors of Napa County, State of California, ordains as follows:

SECTION 1. Section 2.100.181 (Fingerprints and background checks.) of Chapter 2.100

(PERSONNEL) of the Napa County Code is amended to read in full as follows:

2.100.181 Fingerprints and background checks.

- A. Fingerprints of new employees and certain categories of current employees of the county shall be taken as a condition of county employment as permitted by Penal Code Sections 11105(b)(11) and 11105.3. Those persons who are required to submit to fingerprinting as a condition of employment include the following:
 1. New employees (including regular and extra help employees and interns and volunteers); and
 2. All personnel hired after July 1, 1975, having access to criminal offender record information, as required by the California Department of Justice and 11 California Code of Regulations Section 703(d).
- B. In addition to submitting to fingerprinting, certain positions require Federal Bureau of Investigation ("FBI") background checks. Those persons required to submit to an FBI background check shall include:
 1. New employees and current employees (including regular and extra help employees and interns and volunteers), who serve in or are transferred, demoted, or promoted into a classification, where the employees or contractors would care for or would have supervisory or disciplinary power over minors, the elderly, the handicapped, or the mentally impaired as provided in Penal Code Section 11105.3. The positions that require fingerprinting and FBI background checks pursuant to this section are described in Section 37Y of the Policy Manual. However, background checks on this category of individuals shall be limited to those records of convictions specified in Penal Code Section 11105.3, as that statute may be amended from time to time. Such persons shall not be allowed to work in positions where they will care for or have supervisory or disciplinary power over minors, the elderly, the handicapped, or the mentally impaired until a background check has been completed and the human resources director or the director of human resources designee has approved the individual for the particular job after consideration of any criminal offender record information; and
 2. Current employees (including regular and extra help employees and interns and volunteers) having direct access to criminal offender record information,

- including custodians and maintenance workers assigned to the sheriff, probation, and district attorney departments; and
3. New employees and current employees (including regular and extra help employees and interns and volunteers), who serve in or are transferred, demoted, or promoted into a classification that includes access to federal tax information ("FTI"). FTI includes tax returns or return information received directly from the IRS or obtained through an authorized secondary source. The positions that require fingerprinting and FBI background checks and a renewal of an FBI background check every five years pursuant to this section.
- C. Fingerprints shall be taken by the sheriff's department prior to the person receiving payment for performance of duties, or as soon thereafter as practicable.
 - D. Except as hereinafter provided, no person who has been convicted of any crime which renders the person unsuitable for a position in a classification shall be eligible for employment in that classification; provided, however, that the director of Human resources and/or the appointing authority may disregard such conviction if the director of Human resources and/or the appointing authority determines that mitigating circumstances exist, such as, but not limited to, evidence of rehabilitation, the length of time that has elapsed since such conviction, the age of the person at the time of the conviction, or that the conviction is not reasonably related to qualifications, duties or functions of the classification in question.
 - E. The director of human resources, or the director of human resources designee, is hereby appointed to be the records security officer, and shall, in consultation with county counsel, adopt policies and procedures for the safeguarding of criminal offender record information (also known as state summary criminal history information).
 - F. The county executive officer, the director of Human resources, the sheriff, and the county counsel, their respective designees, and each appointing authority of the county, are hereby authorized to have access on a need-to-know basis to information from the state summary criminal history information as provided for in Sections 11105 and 11105.3 of the California Penal Code so long as they each have a fingerprint clearance record/background check completed.
 - G. No one shall be shown a copy of the state summary criminal history information unless authorized by the director of Human resources or the director of human resources designee. A record of said authorization shall be maintained by the human resources division.
 - H. All state summary criminal history information shall be destroyed once a decision is made on whether an individual will be employed in a particular position with the county. Such destruction shall occur not later than thirty working days from the date that such decision is made, unless authorized by law or court order to be retained for a longer period of time.

SECTION 2. It is hereby declared to be the intention of the Board of Supervisors that if any section, subsection, sentence, clause, phrase or word of this Ordinance shall be declared unconstitutional or invalid by a court of competent jurisdiction, such unconstitutionality or

invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 3. This Ordinance shall take effect thirty (30) days from and after the date of its adoption.

SECTION 4. A summary of this Ordinance shall be published at least once five (5) days before adoption and at least once before the expiration of fifteen (15) days after its passage in the Napa Valley Register, a newspaper of general circulation published in Napa County, together with the names of members voting for and against the same.

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The foregoing Ordinance was introduced and read at a regular meeting of the Napa County Board of Supervisors, State of California, held on the 10th day of September 2024, and passed at a regular meeting of the Napa County Board of Supervisors, State of California, held on the ___ day of September 2024, by the following vote:

AYES: SUPERVISORS _____

 NOES: SUPERVISORS _____
 ABSTAIN: SUPERVISORS _____
 ABSENT: SUPERVISORS _____

NAPA COUNTY, a political subdivision of the State of California

 JOELLE GALLAGHER, Chair of the Board of Supervisors

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: <u>Susan B. Altman</u> Deputy County Counsel</p> <p>By: <u>/S/ Brandon Aguilera</u> Code Services</p> <p>Date: <u>8/28/2024</u></p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: _____, 2024</p> <p>Processed By: _____ Deputy Clerk of the Board</p>	<p>ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors</p> <p>By: _____ _____</p>
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I HEREBY CERTIFY THAT THE ORDINANCE ABOVE WAS POSTED IN THE OFFICE OF THE CLERK OF THE BOARD IN THE ADMINISTRATIVE BUILDING, 1195 THIRD STREET ROOM 310, NAPA, CALIFORNIA ON _____.

 NEHA HOSKINS, CLERK OF THE BOARD