

ORDINANCE NO. _____
FINGERPRINT-BASED BACKGROUND INVESTIGATIONS

SUMMARY - LINCOLN COUNTY ORDINANCE NO. _____ AMENDS THE COUNTY CODE TO PROVIDE A NEW CHAPTER GOVERNING FINGERPRINT-BASED BACKGROUND INVESTIGATIONS AS REQUIRED BY THE COUNTY TO COMPLY WITH NEW CONDITIONS TO CONTINUE COUNTY USE OF THE FEDERAL BUREAU OF INVESTIGATIONS AND ITS NATIONAL RESOURCES IN CONDUCTING SUCH INVESTIGATIONS AND PROVIDES MATTERS APPROPRIATELY RELATED THERETO.

TITLE - LINCOLN COUNTY ORDINANCE NO. _____, AN ORDINANCE ENTITLED "FINGERPRINT SUBMISSION CODE", WHICH AMENDS THE COUNTY CODE TO ADD CHAPTER 12 TO TITLE 1 TO SET FORTH PROVISIONS ADOPTING NEW REQUIREMENTS OF THE FEDERAL BUREAU OF INVESTIGATIONS CONCERNING FINGERPRINT SUBMISSIONS WHEREVER SUCH ARE REQUIRED BY COUNTY CODE OR RESOLUTION OF COUNCIL FOR BACKGROUND INVESTIGATIONS IN VARIOUS EMPLOYMENT, LICENSING, PERMITTING AND OTHER PERMISSIBLE CATEGORIES FOR SUCH INVESTIGATION.

WHEREAS, The County has, pursuant to NRS 239B.010, used FBI services for national criminal background checks for employment and licensing purposes and desires to continue to do so;

WHEREAS, the County was notified in late 2007 by the Nevada Department of Public Safety that the FBI will no longer accept fingerprint cards from the County without changes made to the County Code which authorizes background checks for employment and licensing or other purposes;

NOW, THEREFORE, the Lincoln County Board of Commissioners does hereby ordain as follows:

SECTION 1 . Title 1 of the LINCOLN County Code is amended by adding a new chapter, Chapter 12, which shall read as follows:

Chapter 12

FINGERPRINT SUBMISSION

SECTION:

1-12-1: TITLE

1-12-2: INVESTIGATIONS REQUIRED.

1-12-3: NATIONAL BACKGROUND CHECK AUTHORIZED

1-12-4: ENABLING STATE LAW

- 1-12-5: LICENSES AND PERMITS SUBJECT TO FBI INFORMATION REQUESTS
- 1-12-6: SETS OF PRINTS
- 1-12-7: TRANSMISSION OF PRINTS
- 1-12-8: PRIVATE AND PUBLIC ENTITY INVESTIGATIONS
- 1-12-9: FITNESS DETERMINATIONS
- 1-12-10: SUBJECT COPY

1-12-1: TITLE. This Chapter shall be known and may be cited as “Fingerprint Submission Code.”

1-12-2: INVESTIGATIONS REQUIRED. The County Board of Commissioners shall set forth by its policies in its employee handbook and/or by separate resolution the positions of employment which require employment background investigations that include a finger-print based background investigation. As to such positions, the fingerprint-based background investigation is a mandatory portion of the background investigation. The Board of Commissioners may further set forth in the appropriate portion of the County Code or by resolution any other non-employment required fingerprint based background investigation requirements as may be permissible under applicable law. Wherever such requirements are found, they are deemed to be mandatory unless specifically waived by the Board of Commissioners or, if so authorized, the County Manager.

1-12-3: NATIONAL BACKGROUND CHECK AUTHORIZED. In those instances of required fingerprint-based investigations authorized by this Chapter, a national criminal fingerprint-based background check by the Federal Bureau of Investigation (FBI) is authorized hereby. In addition, the subject of the fingerprint-based investigation shall comply with any authorization or release required by the FBI in furtherance of any continued application for employment with the County or any other ground for such investigation.

1-12-4: ENABLING STATE LAW. NRS 239B.010(1)(a) authorizes Lincoln County to request and receive from the FBI information on the background and personal history of any person applying to it for a license as required by any statute or local ordinance which it has the power to grant or deny.

1-12-5: LICENSES AND PERMITS SUBJECT TO FBI INFORMATION REQUESTS. As authorized in NRS 239B.010(1)(a), The County may request personal history and background information, including without limitation, fingerprint-based investigation, from the FBI from any person applying to it for the following licenses and permits:

- A. Business Licenses for any business subject to the licensing provisions of Title 4 of the Lincoln County Code;
- B. Sexually Oriented Business Licenses;
- C. Liquor Licenses;
- D. Gaming Licenses;
- E. Food Handling Permits;

- F. Work Identification Cards for all employees of gambling houses and establishments where alcoholic beverages are sold at retail or served on the premises;
- G. Contractor's Licenses; or
- H. Concealed Weapon Permits.

1-12-6: SETS OF PRINTS. An applicant, employee, volunteer or other person seeking to engage in an activity or status requiring a fingerprint-based background investigation by any portion of the Lincoln County Code or resolution of the County Board of Commissioners, shall submit, if required, two sets of his/her fingerprints taken by the Lincoln County Sheriff's Department to be delivered to the requesting officer of the County.

1-12-7: TRANSMISSION OF PRINTS. Upon receipt of the fingerprints and the appropriate fees, the Lincoln County Sheriff's Department will transmit both sets of fingerprints and appropriate fees to the Department of Public Safety of the State of Nevada. The Department of Public Safety of the State of Nevada will compare the subject's fingerprints against its criminal file for disqualifying conduct and, if necessary, submit the fingerprints to the FBI for a comparison with nationwide records. The results of the FBI will be returned to the Department of Public Safety of the State of Nevada, which will disseminate the state and national results to the Police Department of the County.

1-12-8: PRIVATE AND PUBLIC ENTITY INVESTIGATIONS. If an employer or organization is a private entity and the County Code or Board of Commissioners permits or requires Lincoln County Sheriff determinations, the Lincoln County Sheriff will render a fitness determination based upon the results of the criminal background check and communicate its fitness determination to such private employer or organization. If an employer or organization is a public entity, the Sheriff's Department will (1) render a fitness determination based upon the results of the criminal background check and communicate its fitness determination to such public entity or (2) disseminate the results of the criminal background check to the proper County Department or entity for a fitness determination.

1-12-9: FITNESS DETERMINATIONS. In rendering a fitness determination, the Lincoln County Sheriff's Department or appropriate County Department will decide whether the investigation subject has been convicted of (a) a crime which bears upon his/her ability or fitness to serve in that capacity; (b) any felony or misdemeanor which involved force or the threat of force, controlled substances, or was a sex-related offense; or c) enumerated disqualifiers.

1-12-10: SUBJECT COPY. A record investigation subject may request and receive a copy of his/her criminal history record information from the Lincoln County Sheriff's Department or appropriate County Department. Should the record investigation subject seek to amend or correct his/her record, he/she must contact the Department of Public

Safety for a Nevada state record or the Federal Bureau of Investigation for records from other jurisdictions maintained in its file.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed, but only to the extent of such conflict.

SECTION 3. If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid, unenforceable, or unconstitutional by any court of competent jurisdiction, the invalidity, unenforceability of such section, paragraph, clause, or provision shall not affect any remaining provisions of this Ordinance.

UPON ADOPTION, the County Clerk of Lincoln County is hereby directed to have this Ordinance published, by title only, together with an adequate summary including any amendments, once in a newspaper published in the County, if any, otherwise in a newspaper published in the County and having a general circulation in the County. The County Clerk is directed to post this Ordinance in full at the Lincoln County Courthouse. This Ordinance becomes effective twenty (20) days after its publication.

PASSED AND ADOPTED this _____ day of _____, 2008 by the following vote of the County Board of Commissioners:

AYES: _____

NAYS : _____

ABSENT : _____

APPROVED this _____ day of _____, 2008.
LINCOLN COUNTY, NEVADA

By: _____
Ronda Hornbeck, Chairperson

ATTEST:

Lisa Lloyd, County Clerk

**PUBLIC NOTICE OF THE FILING OF A LINCOLN COUNTY ORDINANCE
PURSUANT TO N.R.S. 244.100**

NOTICE IS HEREBY GIVEN that Lincoln County Ordinance No. _____, with Summary and Title as follows, was filed with the Lincoln County Clerk on _____, 2008:

SUMMARY - LINCOLN COUNTY ORDINANCE NO. _____ AMENDS THE COUNTY CODE TO PROVIDE A NEW CHAPTER GOVERNING FINGERPRINT-BASED BACKGROUND INVESTIGATIONS AS REQUIRED BY THE COUNTY TO COMPLY WITH NEW CONDITIONS TO CONTINUE COUNTY USE OF THE FEDERAL BUREAU OF INVESTIGATIONS AND ITS NATIONAL RESOURCES IN CONDUCTING SUCH INVESTIGATIONS AND PROVIDES MATTERS APPROPRIATELY RELATED THERETO.

TITLE - LINCOLN COUNTY ORDINANCE NO. _____, AN ORDINANCE ENTITLED "FINGERPRINT SUBMISSION CODE", WHICH AMENDS THE COUNTY CODE TO ADD CHAPTER 12 TO TITLE 1 TO SET FORTH PROVISIONS ADOPTING NEW REQUIREMENTS OF THE FEDERAL BUREAU OF INVESTIGATIONS CONCERNING FINGERPRINT SUBMISSIONS WHERE EVER SUCH ARE REQUIRED BY COUNTY CODE OR RESOLUTION OF COUNCIL FOR BACKGROUND INVESTIGATIONS IN VARIOUS EMPLOYMENT, LICENSING, PERMITTING AND OTHER PERMISSIBLE CATEGORIES FOR SUCH INVESTIGATION.

NOTICE IS FURTHER GIVEN that copies of the Ordinance are available for public examination and distribution upon request at the office of the Clerk of Lincoln County, Nevada, at #1 Main Street, Pioche; that said Ordinance was proposed and read by title on _____, 2008, and that the Lincoln County Board of Commissioners intends to take final action on the adoption of said Ordinance on its regular meeting on the _____ day of _____, 2008 as a regular measure.

IN WITNESS WHEREOF, the Lincoln County Board of Commissioners of Lincoln County, Nevada, has caused this Notice to be given by reference to the Title and Summary of the proposed Ordinance.

DATED this _____ day of _____, 2008.

LINCOLN COUNTY

Ronda Hornbeck, Chairperson

Publication of this notice must be at least ten (10) days before the date set for the adoption of the ordinance.

PUBLISHED: on the _____ day of _____, 2008.

NOTICE OF ORDINANCE APPROVAL

NOTICE IS HEREBY GIVEN that on the _____ day of _____, 2008, 2008, the Lincoln County Board of Commissioners, in Lincoln County, Nevada, approved the adoption of an Ordinance for Lincoln County, Nevada, with the Summary and Title as follows:

SUMMARY - LINCOLN COUNTY ORDINANCE NO. _____ AMENDS THE COUNTY CODE TO PROVIDE A NEW CHAPTER GOVERNING FINGERPRINT-BASED BACKGROUND INVESTIGATIONS AS REQUIRED BY THE County TO COMPLY WITH NEW CONDITIONS TO CONTINUE County USE OF THE FEDERAL BUREAU OF INVESTIGATIONS AND ITS NATIONAL RESOURCES IN CONDUCTING SUCH INVESTIGATIONS AND PROVIDES MATTERS APPROPRIATELY RELATED THERETO.

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NOTICE IS FURTHER GIVEN that, pursuant to N.R.S. 244.100, notice of the adoption of the above-entitled Ordinance is being published by title, together with an adequate summary, including any amendments, once a week for a period of 2 weeks before it goes into effect in the Lincoln County Record. Typewritten copies of the ordinance in its entirety are available for inspection at the office of the county clerk and posted in full in the Lincoln County Courthouse. The Ordinance shall become effective twenty (20) days after its publication.

DATED this _____ day of _____, 2008.

LINCOLN COUNTY

RONDA HORNBECK , CHAIRPERSON

PUBLISHED: on the _____ day of _____, 2008.