

**TOWN OF HIGHLANDS**  
HIGHLANDS, NORTH CAROLINA

~ Adopted September 8, 2011

**Code of Highlands – Chapter 2: Administration, Article III. Officers and Employees,  
Section 2-49. Background Checks for Certain Town Employees.**

**Background Checks for Certain Town Employees**

1. Purpose and Intent. The purpose and intent of this ordinance is to provide a procedure for conducting background checks in conjunction with all applications for employment with the Town, where the nature of the employment involves safety or security and thereby to limit its risk of hiring unsuitable employees and to safeguard its assets, current employees and the public.
2. Applicability. Except as otherwise specifically stated herein, this ordinance shall apply to all persons who apply for initial employment or promotion to a permanent employment position (whether full, part-time, intern, or volunteer) of the Town having any one or more of the following (herein referred to as “Security/Safety Position”):
  - a. significant duties of supervision and management of other employees;
  - b. access to any valuable property of the Town, including cash;
  - c. access to private information about other employees, including credit card and social security numbers;
  - d. access to information about bank accounts, credit card accounts, or other financial information of the Town or other Town employees.
  - e. access to computer data files of the Town;
  - f. access to health information or other confidential records of other Town employees;
  - g. duties relating to driving Town vehicles and/or equipment; or
  - h. positions involving the care or instruction of children.
3. Exempt Positions. This ordinance shall not apply to persons serving on volunteer committees of the Town (unless they are also employed in a Security/Safety Position) the elected officials of the Town, the Town attorney and applicants who have not received a written conditional offer of employment where such offer is normally extended to such applicants.
4. Non-criminal history check. This ordinance shall not impair or impede the rights of the Town to investigate other matters relevant to an applicant’s suitability for employment and verify the truth of items in an applicant’s application. Such other matters may include, by way of example, employment history, verification of social security number and identity, education, credit history reports, motor vehicle records and national sexual offenders registry.
5. Employment Application Procedure. All applicants for employment for any Security/Safety Position shall be required to provide a completed fingerprint card, birth certificate, social security card and driver’s license. Applicants will be required to sign a release on a form provided by the Town for this purpose. The release shall contain such provisions as the Town may from time to time deem appropriate, but in any event shall contain a provision specifically authorizing the activities of the Town under this ordinance. All employment opportunity announcements and advertisements of the Town will include a statement, if applicable, that the procedures provided for herein will be required.

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6. Criminal History Check (CHC) Requirements. The Town, through its Town Manager, Police Chief, or other entity designated by the Board of Commissioners, shall conduct a Criminal History Check of any applicant for a permanent full-time or part-time Security/Safety Position with the Town. Any CHC conducted shall include a search through the Division of Criminal Investigation (DCI) of the State Bureau of Investigations (SBI) pursuant to agreements between the Town and the SBI. Background checks will be conducted in compliance with all Federal and State laws and regulations, including Fair Credit Reporting Act and the American Disabilities Act.
7. Verification of CHC. The Town shall not consider the results of a CHC unless the results have been verified. Verification shall consist of a certified true copy of a public record from the jurisdiction where the conviction was obtained, and the determination by the SBI that the fingerprints of the applicant belong to the person convicted as shown by said public records.
8. Use of Verified CHC in Employment Decisions. If a verified CHC shows that the applicant has been convicted, pled guilty to, or pled *nolo contendere* to a felony, or a misdemeanor involving controlled substances, gambling, or any misdemeanor involving violence against another person, the Town will normally deny the applicant's employment request. Factors that may be considered by the Town as to any or all convictions discovered include the nature and the circumstances of the conviction (including pleas of guilty/*nolo contendere*), the date of the conviction, the age of the applicant at the time, the elements of the offense, the probation/parole status of the applicant, whether the offense arose out of an employment situation, patterns of offenses, and whether the conviction is reasonably related to the essential job functions of the position for which the application has been submitted. The applicant shall be notified, confidentially, of any use by the Town of the CHC.
9. Background Checks of Current Employees. The Town shall have the right to conduct a background check of any current employee in a Safety/Security Position, whether or not that employee is applying for a promotion, based upon reasonable suspicion that such check may be necessary to determine whether the employee may be compromising the safety or security of the Town or its citizens. Employees will be notified in writing of any results of such checks. Verified CHCs will be used as described above.
10. No Contract of Employment. Nothing in the ordinance shall be construed as a contract of initial employment or continued employment with the Town. Except as specifically set forth in a written contract of employment, all employees of the Town are employed "at will" and may be terminated at any time, for any reason or no reason at all.
11. Other Laws. This ordinance shall not be construed to abrogate any State statutes, regulations, or codes pertaining to police officers, and in the event of a conflict between this ordinance and a State requirement, the State requirement shall control. This ordinance shall not be construed to violate any State or Federal constitutional rights related to gender, race, disability, national origin, marital status, or religion. This ordinance shall be construed where possible to complement the Town's Personnel Manual.
12. Retention of Records. All records obtained under this ordinance shall be retained pursuant to relevant State requirements and other ordinances of the Town as may be adopted from time to time.
13. Confidentiality of Records. Release of records obtained under this ordinance shall be governed by State statutes, including N.C.G.S. 160A-168.

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14. Town to Maintain Agreement with SBI/DCI Network Regulations and Fee Payment Terms. The Town will maintain an agreement with the State Bureau of Investigations (SBI) Division of Criminal Information (DCI) and fee payment terms as will enable the Town to obtain CBC's under this ordinance.
15. Severability of Provisions. If this ordinance or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to that end the provisions of this ordinance are declared to be severable.
16. Effective Date. This ordinance shall be in full force and effect immediately upon its adoption.

**General statutory reference and authority:** N.C.G.S. 160A-11 and 160A-12.