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5 **AN ORDINANCE**

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7 BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF PULASKI,
8 STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:

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10 **AN ORDINANCE TO AMEND THE PULASKI COUNTY PERSONNEL POLICY**
11 **TO PROHIBIT INQUIRIES INTO AN APPLICANT'S CRIMINAL**
12 **CONVICTION HISTORY ON AN INITIAL EMPLOYMENT APPLICATION**
13 **FORM AND PROHIBIT CERTAIN DEPARTMENTS FROM INQUIRING INTO**
14 **AN APPLICANT'S CRIMINAL RECORD BEFORE A CONDITIONAL OFFER**
15 **OF EMPLOYMENT HAS BEEN MADE.**
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18 Article 1. It is the purpose of this ordinance to assist in the successful reintegration into the
19 workforce of people with criminal records by removing barriers to employment
20 and enhance the health and safety of the community by assisting people with
21 criminal records to lawfully provide for themselves and their families.
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24 Article 2. STATEMENT OF POLICY.
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26 (a) Pulaski County may conduct criminal background checks through the
27 Arkansas State Police to verify eligibility for county employment of prospective
28 employees, volunteers, interns and temporary personnel. Pulaski County may
29 conduct criminal background investigations for current county staff who are
30 finalist for promotional, and /or lateral movement within the county, as well as
31 demotions.
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33 (b) (1) A criminal background check shall be obtained from the Arkansas
34 State Police in accordance with this policy and prior to any person being
35 hired for, or promoted into, the following positions:
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- 37 (i) Department head;
38 (ii) Any employee who would have access to county funds; and
39 (iii) Upper level employees (to be determined by the hiring elected
40 official and/or department head).
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42 (2) These background checks shall be ordered upon the
43 conditional offer of employment but prior to hiring (contingent
44 upon satisfactory results). Such background checks shall be paid
45 from the budget of the hiring department.
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5 (c) A criminal conviction will not automatically disqualify an applicant from
6 employment, unless explicitly mandated by law.
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8 (d) Pulaski County will not inquire into an applicant's criminal history on an
9 initial employment application form.
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11 (e) Pulaski County will not conduct a criminal background checks until after
12 an applicant's credentials have been reviewed and it has been determined that the
13 applicant is otherwise qualified for a position, and the applicant has been
14 recommended for hire by the department where the vacancy exists. Such
15 background checks shall be paid from the budget of the hiring department.
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17 (f) In no case may records of criminal arrests, dismissals, or convictions
18 which have been expunged be used, by the county or any of its agencies, in
19 connection with employment, except as dictated by law. The Human Resources
20 Department shall maintain records as provided by law of all such documents
21 related to background checks and present the results of backgrounds checks to the
22 hiring official as requested.
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24 (g) This policy shall apply to all county departments covered by the Pulaski
25 County Personnel Policy Ordinance or any prospective employees recommended
26 for appointment or hire to a county position.
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29 Article 3. DEFINITIONS.
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31 (a) Applicant – Any current or prospective employee, volunteer or intern.
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33 (b) Adverse Action – Denial of employment to an applicant based on
34 criminal conviction record.
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36 (c) Criminal Background Check – An Arkansas State Police background
37 search of criminal conviction history of prospective employee. The type of
38 information that can be reviewed includes, but is not limited to, a criminal
39 conviction record report including driving record, and sex offender registry.
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41 (d) Conditional Offer – An offer of employment contingent upon certain
42 conditions being satisfactorily met.
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44 (e) Conviction – Any sentence arising from a plea or verdict of guilty,
45 including a sentence of incarceration, a suspended sentence, or a probation
46 sentence.

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5 (f) Intern – A student currently enrolled in a college or university program,
6 who completes internship hours under a mutually approved agreement between
7 the County and the academic institution.
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9 (g) Otherwise Qualified – Any applicant that meets all other criteria for
10 consideration for a position.
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12 (h) Individualized Assessment – The process whereby an employer informs
13 the applicant that he/she may be excluded because of past criminal conduct;
14 provides an opportunity to the applicant to demonstrate that the exclusion does
15 not properly apply to him/her; and considers whether the applicant’s additional
16 information shows that the policy as applied is not job related and consistent with
17 business necessity.
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19 (i) Volunteer – Anyone providing services for the County without receiving
20 or expecting payment.
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24 Article 4. EXEMPTIONS TO THE POLICY.
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26 (a) These following departments will conduct a criminal background check on
27 the following applicants before submitting an offer of conditional employment;
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- 29 (1) All applicants in the Sheriff’s Office;
- 30 (2) All applicants in the Juvenile Detention Facility;
- 31 (3) All applicants in the Youth Services;
- 32 (4) All applicants in any department that provides programs, services,
33 or direct care to minors or vulnerable adults.
- 34 (5) Any other applicants within departments that would have access to
35 county funds.
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38 (b) The prohibitions and requirements of this ordinance do not apply if the
39 inquiries prohibited by this ordinance are expressly authorized by an applicable
40 federal, state, or county law or regulation.
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Article 5. BACKGROUND CHECKS AND IMPLEMENTATION PROCEDURE.

- (a) Individual departments will implement this procedure by:
 - (1) Ensuring that hiring supervisors and applicants are aware that a background check may be completed only after a conditional offer of employment is offered to the applicant;
 - (2) Ensuring that applicants, volunteers, interns and temporary personnel, complete the appropriate Authorization and Consent for Release of Personal Information form before a report is procured;
 - (3) Performing a criminal background check on applicants, volunteers, interns and temporary personnel upon a conditional offer of employment;
 - (4) Ensuring that an-adverse action letter is sent to the prospective employee, volunteer, intern or temporary personnel, when applicable, with a deadline by which that person can submit proof that the report is erroneous, or evidence of their rehabilitation or other pertinent information as desired; and
 - (5) Ensuring that background check information is confidentially handled and maintained within the personnel records in the Human Resources Department.

Article 6. FINDINGS IN CRIMINAL BACKGROUND CHECKS.

- (a) When making employment decisions based on criminal history and convictions, the county should consider the following factors to determine if such decision is job related and consistent with business necessity:
 - (1) The nature or gravity of the offense and conviction;
 - (2) The time elapsed since the conviction and/or completion of the sentence, and
 - (3) The nature of the job sought or held.

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5 (b) An individualized assessment will take into account the following:
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7 (1) The facts or circumstances surrounding the offense and
8 conviction;
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10 (2) The number of offenses for which the individual was convicted;
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12 (3) Evidence that the individual performed the same type of work
13 post-conviction, with the same or different employer, without incidence of
14 criminal conduct;
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16 (4) The length and consistency of employment history before or after
17 the offense and conviction;
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19 (5) Rehabilitation efforts, e.g., education/training;
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21 (6) Employment or character references and any other information
22 regarding fitness for the particular position; and
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24 (7) Whether individual is bonded under a federal, state or local
25 bonding program; and
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27 (8) The age of the applicant at the time of conviction or release from
28 prison.
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30 (c) If there are findings because of a criminal background check that could
31 potentially lead to an adverse action, the elected official of the hiring department
32 must be consulted. If a decision is made to authorize a change in the job offer
33 status, the applicant will be notified in accordance with this administrative
34 procedure. If the applicant submits a request for reconsideration, a copy of the
35 candidate letter, the Arkansas State Police report, evidence of rehabilitation, or
36 proof of error in the report, will be submitted to the hiring department for further
37 review. The final decision to offer or change the job offer will be determined by
38 the hiring department.
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40 (d) The County will follow the practices set forth below when it is inclined to
41 deny an applicant a position because of their conviction history:
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(1) Ensure that due diligence is exercised to confirm that the record received pertains to the individual for whom a request was made by comparing the applicant’s identifying information, such as that on a driver’s license or government issued identification, Authorization and Consent for Release of Personal Information or Arkansas State Police report; and

(2) Notify the applicant and provide, upon request, the applicant with a copy of the Arkansas State Police report that appears to make him or her ineligible for employment prior to making any adverse determination or taking any adverse action.

(f) Nothing in this administrative procedure obligates the county to suspend recruitment efforts indefinitely, or prevents the county from filling the position for which an affected applicant has applied.

(g) In no instance, will implementation of this policy conflict with applicable federal or state statutes and regulations.

Article 8. SEVERABILITY: If any part of this ordinance is held invalid, such invalidity shall not affect any other portion of this ordinance.

Article 9. REPEALER: All laws and parts of laws in conflict with this ordinance are hereby repealed.

Article 10. This ordinance shall take effect within 60 days after being adopted and signed.

ATTEST: _____ APPROVED: _____

DATE: _____ DATE: _____