

City of South Daytona

Office of the City Manager

1672 S. Ridgewood Avenue • South Daytona, FL 32119 • 386/322-3014



MEMORANDUM

To: James L. Gillis Jr., City Manager
From: Becky Witte, Deputy City Clerk
Re: Consideration of approving Ordinance No. 2026-02 amending Chapter 2, to add Article V, Criminal History Record Checks of the City Code as presented.
Date: January 21, 2026

Florida Statute section 166.0442 requires cities to adopt an Ordinance in order to conduct fingerprint-based, state and national criminal history record checks, also known as Level 2 background checks. Although the City has historically conducted general background checks on prospective employees, the Florida Department of Law Enforcement (FDLE) may only process state and national checks when a city is specifically authorized by statute or local ordinance.

Since South Daytona currently lacks a specific ordinance, FDLE requested that an ordinance be drafted and adopted prior to moving forward. Proposed Ordinance No. 2026-02, which was provided by FDLE, adds a new article to Chapter 2 of the City's Code of Ordinances to formally authorize criminal history record checks for certain City employees, officials, appointees, volunteers, and contractors. These checks would apply to positions that the City determines are critical to security or public safety. **It is important to note that all employees are deemed critical to security or public safety for the purposed of this Ordinance and will be fingerprinted in order to conduct state and national criminal history checks upon adoption.**

This Ordinance provides that legal authorization and establishes the City's authority to require fingerprinting and criminal history screening through FDLE and the Federal Bureau of Investigation (FBI). The information obtained may be used to determine eligibility for employment, appointment, or continued service with the City, while protecting the confidentiality of the records.

Implementation of the ordinance will occur once the City receives its FBI Originating Agency Identifier (ORI), which is required before fingerprint submissions can be processed.

Staff recommends the City Council adopt Ordinance No. 2026-02 to ensure compliance with state law and to enhance the safety and security of City operations and the public.

ORDINANCE NO. 2026-02

AN ORDINANCE OF THE CITY OF SOUTH DAYTONA, FLORIDA, AMENDING CHAPTER 2 (ADMINISTRATION) OF THE CITY OF SOUTH DAYTONA CODE OF ORDINANCES, TO ADD ARTICLE X. CRIMINAL HISTORY RECORD CHECKS; PROVIDING FOR CRIMINAL HISTORY RECORDS CHECKS PURSUANT TO SECTION 166.0442, FLORIDA STATUTES; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, APPLICABILITY, AND AN EFFECTIVE DATE.

WHEREAS, it has been common general practice for the City to conduct general background checks of all prospective City employees; and

WHEREAS, Section 166.0442, Florida Statutes, authorizes cities by ordinance to require state and national criminal history screening for any position of city employment or appointment, whether paid, unpaid, or contractual, which the governing body of the City finds is critical to security or public safety; and

WHEREAS, Section 166.0442, Florida Statutes, also authorizes cities by ordinance to require state and national criminal history screening for any private contractor, employee of a private contractor, vendor, repair person, for-hire chauffeur, or delivery person who has direct contact with individual members of the public or access to any public facility or publicly operated facility in such a manner or to such an extent that the governing body of the City finds that preventing unsuitable persons from having such contact or access is critical to security or public safety; and

WHEREAS, events of terrorism, crimes against children and other vulnerable persons, and major computer crimes in recent years have caused governments to place a higher emphasis on safeguarding infrastructure and personal security of employees and the public at large; and

WHEREAS, the City Council finds that the adoption of a criminal background history ordinance is in the best interest of the citizens who do business and interact with City employees and representatives to promote the health, safety, and welfare of the community; and

WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the original text, *** shall constitute ellipses to the original text and ~~strikethrough~~ shall constitute deletions to the original text.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTH DAYTONA, VOLUSIA COUNTY, FLORIDA THAT:

SECTION 1. Recitals. The above recitals are true and correct and are incorporated herein by reference.

SECTION 2. Adoption. The City Council of the City of South Daytona hereby amends Chapter 2 of the City of South Daytona Code of Ordinances as follows:

ARTICLE X. CRIMINAL HISTORY RECORD CHECKS

Sec. 2-430. Criminal History Record Checks.

- (a) **Authority.** Notwithstanding Chapter 435, Florida Statutes, this section is hereby established pursuant to Section 166.0442, Florida Statutes, to provide for state and national criminal history screening of certain municipal employees, appointees, and private contractors. This section is not intended to preempt or prevent any other background screening, including, but not limited to, criminal history record checks, that the City may lawfully undertake.
- (b) **Person subject to criminal history record checks.** The City may require state and national criminal history screening and continued screenings (background checks), for individuals belonging to the following groups:
- (1) Any position of City employment or appointment, whether paid, unpaid, volunteer, or contractual, which is critical to security or public safety; and
 - (2) Any private contractor, employee of a private contractor, vendor, repair person, or delivery person who has direct contact with individual members of the public or access to any public facility or publicly operated facility in such a manner or to such an extent that the City finds that preventing unsuitable persons from having such contact or access is critical to security or public safety.
- (c) **Screening process.** Screening requires every person applying for, or continuing employment or appointment in, any such position deemed critical to security or public safety, or having such contact or access to any such facility within the City to be fingerprinted pursuant to Section 166.0442(2), Florida Statutes, on an approved live scan device or hard copy fingerprint card. The fingerprints shall be submitted to the Florida Department of Law Enforcement (FDLE) for a state criminal history record check and to the Federal Bureau of Investigations (FBI) for a national criminal history record check.
- (d) **Use of information obtained in the record check.** The information obtained from the criminal history record check conducted by the City pursuant to this section may be used to determine a person's eligibility for such employment or appointment and to determine a person's eligibility for continued employment or appointment with the City. The information may also be used to determine a person's eligibility as a volunteer, private contractor, employee of a private contractor, vendor, repair person, or delivery person. The information obtained may not be issued to private entities, however a copy may be given to the person upon request.

SECTION 3. Administrative Actions. The City Manager, or designee, is hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions to include, but not be limited to, the adoption of administrative forms, policies, procedures, processes and rules.

SECTION 4. Codification. The provisions of this Ordinance, including its recitals, shall become and be made a part of the City of South Daytona Code of Ordinances and the Sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections 1, 3, 4, 5, 6, and 7 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 5. Conflicts. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 6. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 7. Effective Date. This Ordinance shall take effect immediately upon enactment.

APPROVED upon first reading on the 10th day of February, 2026 at a regular meeting of the City Council of the City of South Daytona.

APPROVED AND ADOPTED upon second and final reading on the 10th day of March, 2026 at the regular meeting of the City of South Daytona City Council.

CITY OF SOUTH DAYTONA:

ATTEST:

William C. Hall, Mayor

James L. Gillis, Jr., City Manager

CERTIFIED AS TO FORM:

Wade C. Vose, City Attorney



Business Impact Estimate Form

This Business Impact Estimate Form is provided to document compliance with and exemption from the requirements of Sec. 166.041(4), Fla. Stat. If one or more boxes are checked below under “Applicable Exemptions”, this indicates that the City has determined that Sec. 166.041(4), Fla. Stat., does not apply to the proposed ordinance and that a business impact estimate is not required by law. If no exemption is identified, a business impact estimate required by Sec. 166.041(4), Fla. Stat. will be provided in the “Business Impact Estimate” section below. In addition, even if one or more exemptions are identified, the City may nevertheless choose to provide information concerning the proposed ordinance in the “Business Impact Estimate” section below. This Business Impact Estimate Form may be revised following its initial posting.

Proposed ordinance’s title/reference:

Ordinance No. 2026-02. An Ordinance of the City of South Daytona, Florida, amending Chapter 2 (Administration) of the City of South Daytona Code of Ordinances to add Article X, Criminal History Record Checks; providing for criminal history record checks pursuant to section 166.0442, Florida Statutes; and providing for codification, conflicts, severability, applicability, and an effective date.

Applicable Exemptions:

- The proposed ordinance is required for compliance with Federal or State law or regulation;
- The proposed ordinance relates to the issuance or refinancing of debt;
- The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the municipal government;
- The proposed ordinance is an emergency ordinance;
- The ordinance relates to procurement; or
- The proposed ordinance is enacted to implement the following:
 - Development orders and development permits, as those terms are defined in s. 163.3164 and development agreements, as authorized by the Florida

Local Government Development Agreement Act under ss. 163.3220-163.3243;

- Comprehensive plan amendments and land development regulation amendments initiated by an application by a private party other than the municipality;
- Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
- Section 553.73, Florida Statutes, relating to the Florida Building Code; or
- Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

Business Impact Estimate:

The City hereby publishes the following information:

- 1. A summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):**

Proposed Ordinance 2026-02 adds a new article to Chapter 2 of the City's Code of Ordinances to formally authorize criminal history record checks for certain City employees, officials, appointees, volunteers, and contractors. These checks would apply to positions that the City determines are critical to security or public safety.

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- 2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the municipality, including the following, if any:**

- (a) **An estimate of direct compliance costs that businesses may reasonably incur if the ordinance is enacted:**

None.

- (b) **Identification of any new charge or fee on businesses subject to the proposed ordinance, or for which businesses will be financially responsible:**

None.

- (c) **An estimate of the municipality's regulatory costs, including an estimate of revenues from any new charges or fees that will be imposed on businesses to cover such costs:**

None.

- 3. A good faith estimate of the number of businesses likely to be impacted by the ordinance:**

None.

- 4. Additional information the governing body determines may be useful (if any):**

None.

Note: *The City's provision of information in the Business Impact Estimate section above, notwithstanding an applicable exemption, shall not constitute a waiver of the exemption or an admission that a business impact estimate is required by law for the proposed ordinance. The City's failure to check one or more exemptions below shall not constitute a waiver of the omitted exemption or an admission that the omitted exemption does not apply to the proposed ordinance under Sec. 166.041(4), Fla. Stat., Sec. 166.0411, Fla. Stat., or any other relevant provision of law.*