

**ORDINANCE OF THE TOWNSHIP OF LAKEWOOD, COUNTY OF OCEAN,
STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER X
ENTITLED "PERSONNEL POLICIES" OF THE REVISED
GENERAL ORDINANCES OF THE TOWNSHIP OF
LAKEWOOD, SPECIFICALLY SECTION 10-26 (BACKGROUND CHECKS).**

BE IT ORDAINED, by the Township Committee of the Township of Lakewood, County of Ocean, State of New Jersey, as follows:

SECTION 1. That Chapter X entitled "Personnel Policies" of the Revised General Ordinances of the Township of Lakewood specifically Section 10-26 entitled "Background Checks" be and hereby are amended and supplemented as follows:

10-26 BACKGROUND CHECKS.

10-26.1 Definitions.

As used in this section:

Criminal history background check shall mean a determination of whether a person has a criminal record by cross-referencing that person's name, fingerprints, social security number and date of birth, with those on file with the Federal Bureau of Investigation, Identification (SBI) Division and the State Bureau of Identification in the New Jersey State Police.

Criminal history record information or *CHRI* shall mean information collected by criminal justice agencies concerning persons and stored in the computerized databases of the New Jersey State Police SBI Criminal History Information System, the National Law Enforcement Telecommunications Systems or other State computerized repositories containing criminal history record information consisting of identifiable descriptions and notations of arrests, indictments, or other formal criminal charges, and any dispositions, arising there from, including convictions, dismissals, correctional supervision and release.

Department shall mean the Township of Lakewood Police Department.

Director shall mean the Chief of Police or his/her designee.

Employee shall mean an individual sixteen (16) years of age or older who receives compensation from the Township or a youth program to perform services for a youth program and has the potential for unsupervised direct access to youth.

Notification shall mean the response provided by the Department of Law and Public Safety, Division of the State Police, to the request for a criminal history background check pursuant to N.J.S.A. 15A:3a-1 et seq.

Qualified participant shall mean an employee or volunteer who has completed a criminal history background check revealing no disqualifying information.

Sponsored program shall mean any program which receives benefits, either directly or indirectly, including but not limited to the provision of funding or equipment from the Township.

Sponsored programs shall mean any program which, while not directly sponsored by the Township with funding, the providing of equipment or other benefits, uses Township facilities, including but not limited to sports fields and Township buildings.

Unsupervised direct access to minors shall mean the ability to have interaction with a person who is younger than eighteen (18) years of age without the constant and uninterrupted observation of a parent or guardian of the youth or without the constant and uninterrupted observation of a representative of law enforcement or a supervising qualified participant.

Volunteer shall mean any individual sixteen (16) years of age or older who on an uncompensated basis performs services for a youth program and has the potential for unsupervised direct access to youth.

Volunteer Review Operation or *VRO* shall mean the unit located within the State Bureau of Investigation in New Jersey State Police that is responsible for administering criminal background checks for volunteers and employees for youth programs as specified in this section.

Vendor shall mean any individual, compensated or uncompensated, who manages, works or runs a revenue generating operation at township facilities and has the potential for unsupervised direct access to youth.

Youth shall mean any individual under eighteen (18) years of age.

Youth programs shall mean any program which allows for participation in activities or services by persons under eighteen (18) years of age, including but not limited to, sporting activities, passive recreation groups, clubs, camps, field trips, cultural organizations, social groups and other activities or services. Specifically included are such organizations as paid/volunteer fire companies, emergency management, medical organizations, and paid/volunteer ambulance squads. Specifically excluded are public and non-public schools.

(Ord. No. 2015-58)

10-26.2 Criminal Background Check Costs.

The cost of the background checks are to be borne by the volunteer, ~~or~~ employee, vendor or by the youth organization. The cost is the current program fee determined by the Volunteer Review Operation. Township employees who require such a criminal background check as a part of the employee's employment duties shall be reimbursed by the Township for the cost of the background check from a fund established by the Township. Only a qualified, approved participant may serve as an employee or volunteer of a Township sponsored or Township supported youth program or act as a vendor at township facilities. (Ord. No. 2015-58)

10-26.3 Disqualifications.

A person shall be disqualified from serving as an employee or volunteer of a youth program or vendor if that person's criminal history background check reveals a record of conviction of any of the following crimes or offenses:

- a. 2C:11 HOMICIDE
All offenses
- 2C:12 ASSAULT; ENDANGERING; THREATS
All offenses
- 2C:13 KIDNAPPING
All offenses
- 2C:14 SEXUAL OFFENSES
All offenses
- 2C:15 ROBBERY
All offenses
- 2C:20 THEFT
All offenses
- 2C:24 OFFENSES AGAINST THE FAMILY, CHILDREN AND INCOMPETENTS
All offenses
- 2C:35 CONTROLLED DANGEROUS SUBSTANCES
All offenses except paragraph (4) of subsection a. of N.J.S. 2C:35-10

b. Conduct in any other state or jurisdiction which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in paragraph a. of this subsection.

c. Nothing herein shall be construed to authorize an excluded sex offender as defined in N.J.S.A. 2C:7-22 to serve as an employee, or volunteer in a youth organization, vendor or any other entity from which the excluded sex offender is otherwise statutorily disqualified.

(Ord. No. 2015-58)

10-26.4 Request for Criminal Background Checks.

a. The Township requires that all employees and volunteers of youth programs and vendors as described herein, either sponsored by the Township or supported by the Township, get a background check by applying to the Lakewood Township Police Department for an identification number that is required for live scan finger printing required by the State of New Jersey. No person shall be permitted to act as an

employee or volunteer of a youth program, nor as a vendor of either Township sponsored or supported programs or facilities, until the results of the criminal history background check has been received and approved by the Chief of Police or his/her designee.

b. Any person who through prior compliance with the background check requirements of this section or who by virtue of such person's occupation has been required by statute or otherwise to undergo a criminal history background check that is as comprehensive as the check required by this section may, in the discretion of the Chief of Police or his/her designee, be exempt from the requirements of this section. However, such prior criminal history background check must have been completed within the preceding ~~five (5) years~~ year in order to be exempt.

c. Notwithstanding prior compliance with the requirements of this section, no individual shall be permitted to continue as an employee or volunteer of a Township sponsored or Township supported youth program or vendor unless the latest criminal history background check provided to the Police Department was performed within the preceding ~~five (5)~~ twelve month period.

d. Current members of a paid/volunteer fire company, emergency management, emergency medical organization or ambulance squad subject to this section who have not complied with the requirement for a criminal history background check shall have sixty (60) days from the effective date of these amendments to obtain the required criminal history background check. The Chief of Police or his/her designee may extend such deadline for good cause shown.

Editor's Note: This section was adopted October 8, 2015 by Ord. No. 2015-58.

(Ord. No. 2015-58)

10-26.5 Criminal History Background Check Procedures.

a. All Township sponsored or Township supported youth organizations and vendors shall submit a complete list of names and addresses for all employees or volunteers subject to this section. In addition, each such organization shall provide such additional information as may be required by the Chief of Police or his/her designee. Each individual shall, through the organization, submit an executed consent form authorizing the required criminal history background check.

b. The Chief of Police or his/her designee shall coordinate the required background checks, including the fingerprinting through the State's approved live scan electronic fingerprinting vendor and the taking of photographs for identification cards for qualified participants.

c. It is the responsibility of each youth organization and its management, including officers, directors and coaches, to ensure that all individuals who serve as employees or volunteers of such youth program submit and obtain a criminal history background check and the refusal or failure of any Township's supported youth program shall result in immediate dismissal from any Township sponsored youth program and the refusal or

failure of any Township's supported youth program to comply with the requirements of this section shall result in a denial of the use of Township facilities.

d. It is the responsibility of each vendor that has the potential for unsupervised direct access to youth to ensure that all individuals who serve as employees or volunteers submit and obtain a criminal history background check and the refusal or failure of any vendor shall result in immediate dismissal and the refusal or failure of any vendor to comply with the requirements of this section shall result in a denial of the use of Township facilities.

~~d.e.~~ Scope of services provided by the Lakewood Police Department :

1. Process all employees, ~~and~~ volunteers and vendors to ensure complete and accurate submission of required information.
2. Photograph all volunteers, ~~and~~ employees and vendors subject to this section.
3. Receive the results of the criminal history background checks and, if appropriate, approve each individual status.
4. Issue photograph identification cards to qualified participants, which identification cards shall be valid for ~~five (5)~~ one (1) year from issuance unless otherwise revoked by the Township. In the event of a revocation of an issued identification card, the individual shall immediately return such card to the Department and the failure to do so shall be a violation of this section.
5. Maintain current lists of all employees and volunteers of youth organizations and vendors subject to this section and verify compliance on a continual basis.
6. The Chief of Police or his/her designee shall be responsible for the maintenance of all records generated as a result of this section. All such information shall be deemed confidential and maintained in a secure location. Such records shall be only retained for such period of time as is necessary to ensure compliance with this section.

(Ord. No. 2015-58)

10-26.6 Notification.

a. The individual applying for the criminal history background check shall authorize the Chief of Police or his/her designee to be the recipient of the affirmative or negative response from the State Police Bureau of Investigation. If appropriate, the Chief of Police or his/her designee shall then proceed to process the individual's identification card. If the individual wishes to obtain a copy of the criminal history record itself, a request must be submitted to the New Jersey State Police.

b. If the individual believes that the result of the criminal history background check is factually inaccurate or that the individual's criminal history record is in some way factually inaccurate, the individual must contact the New Jersey State Police directly.

c. Neither the Chief of Police or his/her designee nor other individuals in the Township government are privy to the special contents of the applicant's criminal history background check. However, the individual employee or volunteer may obtain a copy of the actual criminal history background check from the New Jersey State Police and may confidentially provide it to the Chief of Police or his/her designee for the purposes of an appeal pursuant to subsection 10-26.7.

(Ord. No. 2015-58)

10-26.7 Appeal Process and Appeal Panel.

a. If a disqualification notice from the State of New Jersey is received, the volunteer or employee may obtain from the State Police a full criminal history record and any dispute regarding the accuracy of completeness of such record shall be directed to the State Police. If, however, the individual disputes the appropriateness of the disqualification notice on grounds other than the accuracy or completeness of the individual's criminal history record, the individual may appeal the determination by filing a written notice of appeal with the Chief of Police or his/her designee no later than twenty (20) days after receiving the determination. Once an appeal notice is received by the Chief of Police or his/her designee, a meeting with the Appeal Panel shall be scheduled.

b. There is hereby established pursuant to this section an Appeal Panel consisting of the Township Manager, the Township Chief of Police and the Township Director of Public Works. Each individual will serve without compensation. The Township Manager, the Chief of Police and the Director of Public Works may select a designee to serve in their place on the Appeal Panel. A meeting of the Appeal Panel shall require at least two (2) of its members or designees to be present. Any decision of the Appeal Panel shall require agreement by at least two (2) members or their designees.

c. The Appeal Panel shall meet with the individual who has filed an appeal and review such information and documentation as may be submitted for consideration. The Appeal Panel may, in its discretion, consider evidence of rehabilitation if documented to the Appeal Panel by clear and convincing evidence.

d. The Township Manager shall preside at the appeal and, if deemed appropriate, may take testimony under oath. Technical rules of evidence shall not be applicable and a verbatim recording is not required.

e. The determination of the Appeal Panel shall be final and not subject to any further appeal. The Appeal Panel may, however, if deemed appropriate by the Township Manager agree to reconsider a denied appeal if the individual produces new or additional information.

f. The Appeal Panel may establish such procedures as it deems appropriate for the processing and hearing of appeals.

(Ord. No. 2015-58)

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, paragraph, sentence or any part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance not directly involved in the controversy in which such judgment shall have been rendered.

SECTION 4. This Ordinance shall take effect immediately upon final passage and publication as required by law.

NOTICE

PUBLIC NOTICE is hereby given that the foregoing Ordinance was introduced at a meeting of the Township Committee of the Township of Lakewood, in the County of Ocean and State of New Jersey on the **18th day of October**, and was then read for the first time. The said Ordinance will be further considered for final passage by the Township Committee in the Town Hall at 7:30 p.m. on **November 8, 2017**. At such time and place or any time or place to which said meeting may be adjourned, all persons interested will be given an opportunity to be heard concerning said ordinance.

Kathryn Hutchinson, RMC
Township Clerk