

ORDINANCE NUMBER 1877 OF 2013

AN ORDINANCE AMENDING CHAPTER 8, BACKGROUND CHECKS, OF THE GALLOWAY TOWNSHIP CODE

WHEREAS, the Township Council of the Township of Galloway is aware that numerous programs and services are offered through and with the support of the Township government to the minor residents of the Township; and

WHEREAS, the Township Council of the Township of Galloway wishes to ensure that the Township of Galloway is providing the safest possible recreational and other programs for the minors involved; and

WHEREAS, an enacted law of the State of New Jersey, N.J.S.A. 15A:3A-1 et seq. permits the Township to request that the New Jersey State Police conduct a criminal history record background check on each prospective and current employee or volunteer participating in any Township endorsed or sponsored programs which will provide recreational, cultural, charitable, social or other activities for persons younger than 18 years of age; and

WHEREAS, the Township of Galloway requires that all such current and prospective employees and volunteers involved with youth programs be required to submit to such criminal history record background checks at a cost to be borne by the volunteer and/or the volunteer organization at the current program fee established by the New Jersey State Police's Volunteer Review Operation Program paid directly to the contracted vendor at time of scheduling.

WHEREAS, Township employees participating in such a program for minors as a part of the employee's employment duties shall be reimbursed by the Township for the cost of the criminal history background check from a fund established by the Township; and

WHEREAS; the Township Council of the Township of Galloway requires that all youth programs sponsored or supported by the Township be required to perform criminal history record background checks on their employees and volunteers, as a condition of Township sponsorship or support; and

WHEREAS, Identification cards will be issued to volunteers and employees who have successfully completed the criminal history record background check.

NOW BE IT THEREFORE ORDAINED by the Township Council of the Township of Galloway, County of Atlantic, State of New Jersey, as follows:

SECTION 1. DEFINITIONS.

As used in this Ordinance:

- A. "Criminal history record background check" means 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.
- B. "Criminal history record information" or "CHRI" means 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.
- C. "Department" means the Township of Galloway Department of Community Services.
- D. "Director" means the director of the Department of Community Affairs.
- E. "Employee" means 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.
- F. "Notification" means the response provided by the Department of Law and Public Safety, Division of State Police, to the request for a criminal history background check pursuant to N.J.S.A. 15A:3a-1 et seq.
- G. "Qualified Participant" means an employee or volunteer who has completed a criminal history background check revealing no disqualifying information.
- H. "Sponsored Program" means any youth program which receives benefits, either directly or indirectly, including but not limited to the provision of funding or equipment from the Township.
- I. "Supported Programs" means 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.
- J. "Unsupervised Direct Access to Minors" means 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.

- K. "Volunteer" means 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.
- L. "Volunteer Review Operation" or "VRO" means the unit located within the State Bureau of Investigation in the New Jersey State Police that is responsible for administering criminal background checks for volunteers and employees for youth programs as specified in this Chapter.
- M. "Youth" means any individual under eighteen (18) years of age.
- N. "Youth Programs" means 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 volunteer fire companies, emergency management and medical organizations and ambulance squads. Specifically excluded by public and non public schools.

SECTION 2. CRIMINAL BACKGROUND CHECK COSTS. The cost of the background checks are to be borne by the volunteer or employee 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 participant may serve as an employee or volunteer of a Township sponsored or Township supported youth program.

SECTION 3. DISQUALIFICATION. A person shall be disqualified from serving as an employee or volunteer of a youth program if that person's criminal history record 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 INCOMPETANTS
 - 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 subsection A of this section.
- 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 or any other entity from which the excluded sex offender is otherwise statutorily disqualified.

SECTION 4. REQUEST FOR CRIMINAL BACKGROUND CHECKS.

- A. The Township requires that all employees and volunteers of youth programs, either sponsored by the Township or supported by the Township, submit to the Department of Community Services a written consent to the obtaining of a criminal history background check together with any other information deemed necessary by the Director of Community Services. The submission to the Department of Community Services shall be pursuant to procedures established by the Director of the Department. The Director shall coordinate the criminal history background checks. No person shall be permitted to act as an employee or volunteer of a youth program, either Township sponsored or supported, until the results of the criminal history background check has been received and approved by the Director.
- B. Any person who through prior compliance with the background check requirements of this Chapter 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 chapter may, in the discretion of the Director of Community Services, be exempt from the requirements of this Chapter. However, such prior criminal history background check must have been completed within the preceding five (5) years in order to be exempt.
- C. Notwithstanding prior compliance with the requirements of this Chapter, no individual shall be permitted to continue as an employee or volunteer of a Township sponsored or Township supported youth program unless the latest criminal history background check provided to the Department of Community Services was performed within the preceding five (5) year period.
- D. Current members of a volunteer fire company, emergency management, emergency medical organization or ambulance squad subject to this Chapter 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 Director of the

Department of Community Services may extend such deadline for good cause shown.

SECTION 5. CRIMINAL HISTORY BACKGROUND CHECK PROCEDURES.

- A. All Township sponsored or Township supported youth organizations shall submit a complete list of names and addresses for all employees or volunteers subject to this Chapter. In addition, each such organization shall provide such additional information as may be required by the Director. Each individual shall, through the organization, submit an executed consent form authorizing the required criminal history background check.
- B. The Director 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 are approved by the Director as a qualified participant. Refusal or failure by any individual required to submit to such a background check 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 Chapter shall result in a denial of the use of Township facilities.
- D. Scope of services provided by the Galloway Department of Community Services:
 - a. Process all employees and volunteers to ensure complete and accurate submission of required information.
 - b. Photograph all volunteers and employees subject to this Chapter.
 - c. Receive the results of the criminal history background checks and, if appropriate, approve each individual status.
 - d. Issue photograph identification cards to qualified participants, which identification cards shall be valid for five (5) years 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 Chapter.
 - e. Maintain current lists of all employees and volunteers of youth organizations subject to this Chapter and verify compliance on a continual basis.
 - f. The Director shall be responsible for the maintenance of all records generated as a result of this Chapter. All such information shall be deemed confidential and maintained in a secure location. Such records

shall only be retained for such period of time as is necessary to ensure compliance with this Chapter.

SECTION 6. NOTIFICATION.

- A. The individual applying for the criminal history background check shall authorize the Director of the Department of Community Affairs to be the recipient of the affirmative or negative response from the State Police Bureau of Investigation. If appropriate, the Director 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 Director nor other individuals in the Township government are privy to the specific 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 Director for the purposes of an appeal pursuant to Section 7.

SECTION 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 or 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 Director no later than 20 days after receiving the determination. Once an appeal notice is received by the Director, a meeting with the Appeal Panel shall be scheduled.
- B. There is hereby established pursuant to this Chapter an Appeal Panel consisting of the Township Manager, the Township Chief of Police and the Director of Community Services. Each individual will serve without compensation. The Township Manager, the Chief of Police and the Director of Community Services 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 Director of Community Services 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.

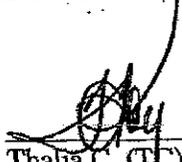
SECTION 8. All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 9. The Ordinance shall take effect upon final passage, approval and publication as provided by law.

SECTION 10. To the extent that any part or parts of this ordinance are repealed or otherwise modified or voided by the State Statute or case law, the remaining sections of this ordinance shall remain in full force and effect.

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed first reading at a regular meeting of the Township Council of the Township of Galloway, County of Atlantic and State of New Jersey, held on the 13th day of August, 2013 and said ordinance will be further considered for final passage and adoption and the public hearing held thereon at a regular meeting of the Township Council to be held in the Municipal Building, 300 E. Jimmie Leeds Road, Galloway, NJ 08205, on the 10th day of September, 2013 at 6:30 pm.

BY ORDER OF THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF GALLOWAY


 Thalia C. (TE) Kay, RMC
 Township Clerk

Recorded Vote:	MOTIONS	AYE	NAY	ABSTAIN	ABSENT
Bassford					X
Coppola		X			
Gorman	1	X			
McElwee		X			
Tyrrell	2	X			
Ullman		X			
Purdy		X			