

AN ORDINANCE AMENDING CHAPTER 32, "CRIMINAL BACKGROUND
CHECKS" OF THE CODE OF THE TOWNSHIP OF HAZLET

WHEREAS, in order for the Township of Hazlet to ensure that it is providing the safest possible recreational programs for its youth; and

WHEREAS, pursuant to N.J.S.A. 53:1-20.6 and its implementing regulations located at N.J.A.C. 13:59-1.1, *et seq.*, all government entities of this State, including municipalities, may obtain criminal history record information for any official government purpose, including, but not limited to employment; and

WHEREAS, the Hazlet Township Recreation Commission recommends that all coaches, assistant coaches, board members, and seasonal employees with direct unsupervised access to minors be required to submit to a criminal history background check as it applies to Hazlet Township Youth Programs. This means any program offering services for persons younger than eighteen (18) years of age, including but not limited to sports leagues that are funded and/or administered, in whole or in part, by the Hazlet Township Recreation Commission; and

WHEREAS, in order to further ensure that we have the safest recreation program as possible in protecting our youth participants, these Criminal Background Checks are a mandated necessity. Failure of an individual to submit to a required Criminal Background Check will result in the prohibiting of recreation program participation by that individual.

NOW THEREFORE BE IT ORDAINED by the Township Committee of the Township of Hazlet, County of Monmouth, State of New Jersey, as follows:

Section I. The following shall be a new Section §32-5 entitled "Volunteers and Youth Recreation":

- A. Criminal history background checks shall be required for any person with unsupervised direct access to minors (under the age of 18) involved in any youth-serving recreation organization within the Township of Hazlet.
- B. Definitions. For the purposes of this section, the following words and terms shall have the following meanings:

AUTHORIZED VENDOR — A vendor which is authorized by the State of New Jersey to conduct criminal history record background checks.

COSPONSORED — Township provision of funding or facilities, including maintenance of facilities.

CRIMINAL HISTORY RECORD BACKGROUND — A determination of whether a person has a criminal record by cross-referencing that person's records with those on file with the Federal Bureau of Investigation Identification Division and the State Bureau of Identification in the Division of State Police.

DEPARTMENT — The Township of Hazlet Police Department.

SPONSORED — Recreation run directly by the Township of Hazlet Recreation Commission, including oversight, control and/or fiscal contribution.

SUPERVISED — To have the direction and oversight of the performance of others.

UNSUPERVISED — Not supervised or under constant observation.

VOLUNTEER — Any person involved with a Township of Hazlet sponsored or cosponsored youth sports program or league that has regular unsupervised direct access to minors as a result of a minor's involvement with the organization.

YOUTH-SERVING RECREATION ORGANIZATION or ORGANIZATION — A corporation, association or other organization, including those with nonprofit status, which provides recreation-related activities or services for persons younger than 18 years of age in connection with Township of Hazlet sponsored or cosponsored youth sports programs or leagues.

C. Requests for criminal background checks and costs.

- (1) The Township requires that all employees and volunteers of a youth-serving recreation organization request through the Department that the State Bureau of Identification in the Division of State Police or an authorized vendor conduct a criminal history record background check on each prospective and current employee or volunteer of the organization. There shall be a thirty-day (30) grace period for each new employee or volunteer of the youth-serving organization to make application for this criminal history record background check. All coaches must have their applications completed by the end of the thirty-day grace period.
- (2) The Township shall conduct a criminal history record background check only upon receipt of the written consent for the check from the prospective or current person with direct unsupervised access to minors.
- (3) The individual applicant shall bear the costs associated with conducting a criminal history background check, unless an agreement is made otherwise with the Township and the Recreation Commission.
- (4) The Division of State Police or the authorized vendor shall inform the Department whether the person's criminal history record background check reveals a conviction of a disqualifying crime or offense specified in Subsection D of this section. Any information received by the Department shall be confidential.
- (5) Any person who, by virtue of his/her occupation, is required by statute to undergo a federal and state criminal history record background check similar in nature to the requirements contained herein, and who can provide proof of the results of such background check, is exempt from the requirement hereunder until two (2) years have elapsed since the most current background check .
- (6) Notwithstanding any provision herein to the contrary, the Township may also contract with a youth-serving recreation organization and the organization may

conduct the criminal history background checks in accordance with the provisions of this section.

D. Conditions under which a person is disqualified from service. A person may be disqualified from serving as an employee or volunteer of a youth-serving recreation organization if that person's criminal history record background check reveals a record of conviction of any of the following crimes and offenses:

- (1) In New Jersey, any crime or disorderly persons offense:
 - (a) Involving danger to the person, meaning those crimes and disorderly persons offenses as set forth in N.J.S.A. 2C:11-1 et seq., such as criminal homicide; N.J.S.A. 2C:12-1 et seq., such as assault, reckless endangerment, threats, stalking; N.J.S.A. 2C:13-1 et seq., such as kidnapping; N.J.S.A. 2C:14-1 et seq., such as sexual assault; or N.J.S.A. 2C:15-1 et seq., such as robbery;
 - (b) Against the family, children or incompetents, meaning those crimes and disorderly persons offenses set forth in N.J.S.A. 2C:24-1 et seq., such as endangering the welfare of a child;
 - (c) Involving theft, as set forth in Chapter 20 of Title 2C of the New Jersey Statutes;
 - (d) Involving any controlled dangerous substance or controlled substance analog as set forth in Chapter 35 of Title 2C of the New Jersey Statutes, except Paragraph (4) of Subsection (a) of N.J.S.A. 2C:35-10, possession of 50 grams or less of marijuana.

- (2) In any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in this section.
- (3) This list of crimes and violations contained in this section is for illustrative purposes only and shall not be construed as a limitation on those criminal activities or violations that would be grounds to disqualify a person from assisting with youth-related activities within the Township
- (4) Disorderly persons convictions that occurred more than ten (10) years prior to the date of the criminal background search shall not serve to disqualify the individual involved, provided there have been no subsequent conversation and provided the original violations did not involve children or minors.
- (5) Refusal. Refusal by individuals required to submit to background checks will result in the immediate dismissal of the individual from any Township sponsored activities requiring backgrounds checks.

E. Submission/exchange of background information. A prospective or current employee or volunteer of youth-serving recreation organizations shall submit his or her application and written consent to the Department for the criminal history record background check to be performed. The organization shall submit this documentation to the Department through the Chief of Police, who shall cause the background check to be conducted, and refer the information to the State Police and FBI or the authorized vendor for the initial check. Thereafter, all subsequent background checks shall be submitted to the Chief of Police, who shall coordinate a background check every two (2) years after the date of the initial check. Notwithstanding any provision herein to the contrary, the Township may also contract with a youth-serving recreation organization and the organization may conduct the criminal history background checks in accordance with the provisions of this section.

F. Limitations on access and use of criminal history record information.

- (1) Access to criminal history record information for non-criminal justice purposes, including licensing and employment, is restricted to the members of the Department as authorized by federal or state statute, rule or regulation, executive order, administrative code, local ordinance, or resolution regarding obtaining and disseminating of criminal history record information obtained under this section.
- (2) Criminal history record information furnished shall not be disseminated to

persons or organizations not authorized to receive the records for authorized purposes. Use of this record shall be limited solely to the authorized purpose for which it was given, and it shall not be disseminated to any unauthorized persons or entities. Any person violating federal or state regulations governing access to criminal history record information may be subject to criminal and/or civil penalties.

G. Challenge of accuracy of report.

- (1) If a criminal history record may disqualify an employee or volunteer for any purpose, the employee or volunteer shall be provided with an opportunity to complete and challenge the accuracy of the information contained in the criminal history record. The employee or volunteer shall be afforded a reasonable period of time to correct and complete this record. A person is not presumed guilty of any charges or arrests for which there are no final dispositions indicated on the record. The Department shall coordinate between the employee or volunteer and the Division of State Police or the authorized vendor any such opportunity to complete or challenge the accuracy of the information contained in the criminal history record.
- (2) No person or entity shall be held liable in any civil or criminal action brought by any party based on any written notification on file with the Police Department pursuant to the provisions of this section.

H. Notification of subsequent disqualifying offense. If an employee or volunteer is convicted of a disqualifying crime or offense as specified in Subsection D hereof after such person has cleared the required background check, such person must immediately (but no later than three days after such conviction) notify the Township Administrator of that fact. Such person shall be immediately disqualified from his or her position.

I. Right of Appeal. In the event the Township Recreation Commission determines that an individual is disqualified from participating in Township recreation activities as a result of a crime or violation, the individual shall be notified by the Clerk, and the individual shall have a right to request a hearing before the Township Committee. Such hearing shall not be open to the public in order to protect the privacy interests of the individual. At the time of the hearing, the individual shall be prepared to present any witnesses or evidence in support of his or her claim that the violation does not negatively impact his or her ability to be involved with children's activities at Township-owned facilities. The Committee shall hear the evidence and testimony as presented by the individual and shall have the opportunity to cross-examine or call witnesses of its own. The hearing may be continued from time to time in the event the Committee determines additional information or testimony is needed. Upon the conclusion of any hearings, the Township shall render its written decision within 30 days. Further appeal from the Committee's decision may be made to any court of

competent jurisdiction.

J.

Violations and penalties. Failure to comply with this section may result in the Township withholding funding for the program or league, and/or prohibiting the use of Township facilities.

PUBLIC NOTICE

PUBLIC NOTICE IS HEREBY GIVEN that at a meeting of the Township Committee of Hazlet Township held on the 16th day of December, 2008, the above entitled ordinance was adopted on final passage and becomes effective with the publication of this notice.

ATTEST: EVELYN A. GRANDI
MUNICIPAL CLERK