

TOWNSHIP OF HOPEWELL ORDINANCE 06-1381

**AN ORDINANCE AMENDING AND SUPPLEMENTING THE REVISED
GENERAL ORDINANCES OF THE TOWNSHIP OF HOPEWELL, MERCER
COUNTY, CHAPTER II, ADMINISTRATION, SECTION 33, PARKS, PUBLIC LANDS
AND OPEN SPACES BY ADDING A REQUIREMENT FOR CRIMINAL HISTORY
BACKGROUND CHECKS FOR RECREATION EMPLOYEES & VOLUNTEERS**

WHEREAS, the Township Committee of the Township of Hopewell wishes to ensure that the Township is providing the safest possible recreation programs for its youth; and

WHEREAS, *N.J.S.A. 15A:3A-1* permits non-profit youth-serving organizations to request the State Police to perform a criminal background check on current and prospective employees or volunteers, in order to check the criminal histories of those employees or volunteers who have direct contact with minors, in order to eliminate those with convictions for certain crimes and disqualify prospective employees and volunteers who have been convicted of certain offenses; and,

WHEREAS, the Director of Parks and Recreation has recommended that all employees and volunteers of programs sponsored by Hopewell Township, or co-sponsored by Hopewell Township in connection with the Hopewell Valley Parks and Recreation Department, who have regular, unsupervised access to minors involved in such programs, be required to submit to criminal history background checks at their own expense; and

WHEREAS, the Township would like all youth programs using township facilities, and all programs that are funded or supported by the Township, in whole or in part (including but not limited to baseball, softball, soccer, football, lacrosse, etc.) be required to perform criminal background checks as a condition of using township facilities.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Hopewell, County of Mercer, as follows:

Section 1 Chapter II, Administration, Section 33, Parks, Public Lands and Open Spaces, of the Revised General Ordinances of the Township of Hopewell, is supplemented as follows:

§ 2-33.15. Criminal history background checks of employees and volunteers involved in recreation programs.

§ 2-33.15(a). Background checks required.

1. Any non-profit, youth-serving organization, as defined by state law, *N.J.S.A. 15A:3A-1*, including the Hopewell Valley Parks and Recreation Department, which operates a youth sports program that receives funding from Hopewell Township, or utilizes facilities owned or maintained by Hopewell Township, shall require all employees and volunteers of that organization who have regular, unsupervised contact with minors to obtain a criminal history background check.

2. All such employees or volunteers shall file completed applications for the background check including fingerprints, prior to their first day of service. No such employee or volunteer shall be permitted to serve the organization unless that person consents in writing to the background check. Until a background check is complete, employees and volunteers shall not have regular, unsupervised contact with any minor.

3. The employee or non-profit youth-serving organization shall bear the costs associated with conducting the background check, in accordance with fees established by the State Bureau of Identification and the Division of State Police and in accordance with *N.J.S.A. 15A:3A-2(d)*.

4. Any person who has undergone 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 requirements hereunder until three (3) years has elapsed since the most current background check.

5. Any person who is employed as a full-time staff member with the Hopewell Valley Regional School District shall be exempt from the requirements hereunder.

§ 2-33.15(b). Conditions under which a person shall be disqualified from service.

1. A person shall be disqualified from serving as an employee or volunteer of a non-profit youth serving organization if that person's criminal history background check reveals a record of conviction of any of the following crimes and offenses:

(a) In New Jersey, any crime or disorderly persons offense:

(i) 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;

(ii) 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;

(iii) Involving theft as set forth in Chapter 20 of Title 2C of the New Jersey Statutes;

(iv) 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*.

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.

§ 2.33.15(c) Submission, exchange of background information.

1. Each employee or volunteer shall submit his or her application for a criminal history background check, including fingerprints, to the Director of Parks and Recreation. The Director of Parks and Recreation shall coordinate the background checks with the Hopewell Township Police Department and the New Jersey State Police, in accordance with the requirements of *N.J.S.A. 15A:3A-1 et seq.*

2. If the background check disqualifies the individual from employment or volunteering, he or she shall be so notified by the Hopewell Township Chief of Police, or the Chief's designee, and such information shall be kept confidential by the Police Department.

3. Successful background checks shall be reported to the Director of Parks and Recreation, who shall maintain a list of all individuals who are qualified to serve as employees or volunteers with non-profit youth serving organizations by virtue of their having successfully completed the background check. The Director of Parks and Recreation may share that list with organizations who would like to know if a prospective employee or volunteer has passed the background check.

4. A successful background check remains valid for five years.

5. Access to criminal history record information shall be limited in accordance with law, including *N.J.S.A. 15A:3A-1 et seq.* and *N.J.A.C. 13:59-1.1 et seq.*

§ 2.33.15(d) Appeal procedure.

1. Any person whose criminal history background check disqualifies that person from employment or from volunteering, may appeal his or her disqualification.

(a) A person may challenge the accuracy of the criminal history record;

(b) A person may claim to be rehabilitated;

(c) No person may appeal a disqualification on the grounds of rehabilitation, if the person has been rejected because that person has been convicted, adjudicated delinquent or acquitted by reason of insanity of aggravated sexual assault; sexual assault; aggravated criminal sexual contact; kidnapping pursuant to paragraph (2) of subsection c. of *N.J.S.A. 2C:13-1*; endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child pursuant to subsection a. of *N.J.S.A. 2C:24-4*; endangering the welfare of a child pursuant to paragraph (4) of subsection b. of *N.J.S.A. 2C:24-4*; luring or enticing pursuant to section 1 of P.L.1993, c.291 (*N.J.S.A. 2C:13-6*); criminal sexual contact pursuant to *N.J.S.A. 2C:14-3b*. if the victim is a minor; kidnapping pursuant to *N.J.S.A. 2C:13-2*, or false imprisonment pursuant to *N.J.S.A. 2C:13-3* if the victim is a minor and the offender is not the parent of the victim; knowingly promoting prostitution of a child pursuant to paragraph (3) or paragraph (4) of subsection b. of *N.J.S.A. 2C:34-1*; or an attempt to commit any of these enumerated offenses.

2. A challenge to the accuracy of the report shall be filed with the Hopewell Township Chief of Police, who shall coordinate the challenge with the New Jersey State Police.

3. An appeal based on rehabilitation shall be made to an Appeals Committee, which shall consist of the Director of Parks and Recreation, the Hopewell Township Chief of Police, and the Hopewell Township Administrator. Any such appeal must be made within thirty (30) days of receipt of the notice of disqualification.

4. In determining whether a person has affirmatively demonstrated rehabilitation, the Appeals Committee shall consider the following factors:

(a) The nature and responsibility of the position which the convicted person would hold or has held, as the case may be;

(b) The nature and seriousness of the offense;

(c) The circumstances under which the offense occurred;

(d) The date of the offense;

(e) The age of the person when the offense was committed;

(f) Whether the offense was an isolated or repeated incident;

(g) Any social conditions which may have contributed to the offense; and,

(h) Any other evidence of rehabilitation, including good conduct in prison or the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the person under their supervision.

5. If the Appeals Committee determines that the disqualified person has been successfully rehabilitated, it shall enter that person's name on the list of qualified employees and volunteers maintained by the Director of Parks and Recreation.

§ 2.33.15(e) Penalty.

1. Failure to comply with this Ordinance may result in the township withholding funding for the non-profit youth-serving organization, prohibiting the use of facilities, or withholding funding for facility maintenance.

2. Unless it is reauthorized by the Township Committee, this ordinance shall expire on December 31, 2011.

3. In the event that any portion of this Ordinance is found to be invalid for any reason by any court of competent jurisdiction, such judgment shall be limited in its effect only to that portion of the Ordinance actually adjudged to be invalid, and the remaining portions of this Ordinance shall be deemed severable therefrom and shall not be affected.

4. This Ordinance shall take effect January 1, 2007.

Date Introduced:

Date Advertised:

Date Adopted:

Vanessa Sandom
Mayor

Attest:

Annette C. Bielawski
Municipal Clerk