

Each
New Jersey
Ordinance
2017

ORDINANCE NO. 15-04

→ Rutgers.
→ Concussion
→ Background
check.

"AN ORDINANCE ADDING A REQUIREMENT FOR CRIMINAL HISTORY BACKGROUND CHECKS FOR YOUTH PROGRAM EMPLOYEES & VOLUNTEERS"

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF WOODCLIFF LAKE, IN THE COUNTY OF BERGEN AND STATE OF NEW JERSEY, AS FOLLOWS:

WHEREAS, the Borough Council of the Borough of Woodcliff Lake wishes to ensure that the Borough 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 (age 18 or over in a supervisory capacity not to include referees), 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 Borough would like all youth programs funded or supported by the Borough, in whole or in part be required to perform criminal background checks as a condition of representing the Borough.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Woodcliff Lake, County of Bergen, as follows:

Section 1: A Chapter shall be added with appropriate numbering and location to Revised General Ordinances of the Borough of Woodcliff Lake as follows:

Title: CRIMINAL HISTORY BACKGROUND CHECKS OF EMPLOYEES AND VOLUNTEERS INVOLVED IN YOUTH PROGRAMS.

A. Background checks required.

1. Any Borough of Woodcliff Lake youth-serving organization, as defined by state law, N.J.S.A. 15A:3A-1, shall require all employees and volunteers of that organization who have regular, unsupervised contact with minors to obtain a criminal history background check.
2. The costs associated with conducting the background check shall be 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) for employees and volunteers.
3. The Borough shall bear the cost of background checks for Borough employees only.

 4. Youth organizations may at their own discretion pay the costs associated with conducting the background check for volunteers. However, if the youth organization does not choose to bear said costs; volunteers themselves must bear the costs associated with conducting the background check.

5. No employee or volunteer may commence work without having first undertaken and been cleared by a criminal history background check.

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 (minimal amounts of marijuana or hashish)

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.

C. Submission, exchange of background information.

1. Each employee or volunteer shall submit his or her application and consent for a criminal history background check to the Borough Recreation Director. The Borough Recreation Director shall coordinate the background checks with the Chief of the Woodcliff Lake Police Department or his/her designee and/or the New Jersey State Police, in accordance with the requirements of *N.J.S.A. 15A:3A-1 et seq.*

Once an accurately completed application and consent for a criminal background check is received by the Borough Recreation Director, the employee or volunteer will be given the necessary documents to get their fingerprints taken by an authorized State agency. Employee or volunteer is responsible for making and keeping the necessary appointment for fingerprints to be taken.

The State Police Bureau of Identification shall inform the Chief of the Woodcliff Lake Police or his/her designee within the Police Department whether the employee or volunteer's criminal history record background check reveals a conviction of a disqualifying crime or offense specified in 9-21(b) of this ordinance.

2. If the background check disqualifies the individual from employment or volunteering, he or she shall be so notified by the Chief of the Woodcliff Lake Police or his/her designee within the Police Department. The details in the background check that result in a negative determination by the State Police are only available to the employee or volunteer upon making a formal request to the State Police Bureau of Identification. It will then be up to the individual to obtain a copy of this record and provide it to the Borough Recreation Director for appeal consideration.
3. Successful background checks shall be reported to the appropriate organization Chairperson, 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.
4. A successful background check remains valid for three 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.*

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.
2.
 - 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.
3. A challenge to the accuracy of the report shall be filed with the Woodcliff Lake Borough Chief of Police, who shall coordinate the challenge with the New Jersey State Police.
4. An appeal based on rehabilitation shall be made to an Appeals Council, which shall consist of the Woodcliff Lake Recreation Director, the Woodcliff Lake Borough Chief of Police or the Chief's designee, the Borough Attorney and the Woodcliff Lake Borough Recreation Director. Any such appeal must be submitted to the Woodcliff Lake Police Chief and Borough Recreation Director within thirty (30) days of receipt of the notice of disqualification.
5. In determining whether a person has affirmatively demonstrated rehabilitation for an offense identified in the background check report, the Appeals Council 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
 - 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.
6. If the Appeals Council 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 responsible appropriate organization or committee.
7. Review proceedings of an appeal to the Appeals Council shall be closed to the general public.
8. A determination from the Appeals Council shall be rendered no later than 10 days of the date of review of the appeal.
9. The Woodcliff Lake Police Chief and other police personnel and/or the Appeal Council shall limit their use of the criminal history background check information obtained as a result of the requested search to the making of the determination pursuant to the within chapter.
10. Following the appeal process, the subject records shall be returned to the Woodcliff Lake Police Department, where they shall be sealed, dated, and destroyed one year after sealing, unless the Woodcliff Lake Police Department is advised of judicial action involving the information and/or determinations made under this chapter. If no appeal follows the initial disqualification determination, then the records shall remain with the Woodcliff Lake Police Department, where they shall be sealed, dated, and destroyed one year after sealing, unless the Woodcliff Lake Police Department is advised of judicial action involving the information and/or determinations made under this chapter.
11. Unless otherwise provided by law, use of criminal history record information solely to the authorized person for which it was obtained and 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. Any person violating Federal or State Regulations governing access to criminal history record information may be subjected to criminal and/or civil penalties. The records shall be exempt from public disclosure under Common Law or *N.J.S.A 47:1A-1 et seq.*

E. Penalty.

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

F. Severability.

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.

Section 2: Effective Date

This Ordinance shall take effect upon passage and publication according to law.