

TOWNSHIP OF WASHINGTON
BERGEN COUNTY, NEW JERSEY

ORDINANCE NO. 18-22

**AN ORDINANCE PROVIDING FOR CRIMINAL HISTORY BACKGROUND
CHECKS FOR ADULTS INVOLVED WITH YOUTH PROGRAMS
WITHIN THE TOWNSHIP OF WASHINGTON**

BE AND IT IS HEREBY ORDAINED by the Township Council of the Township of Washington that the Code of the Township of Washington is hereby amended by creating Chapter 15 entitled "Criminal History Background Checks" which shall provide as set forth below:

1. "
Chapter 15

CRIMINAL HISTORY BACKGROUND CHECKS

§ 15-1 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CRIMINAL HISTORY RECORD BACKGROUND CHECK

A determination of whether a person has a criminal record by cross-referencing that person's name and fingerprints with those on file with the Federal Bureau of Investigation, Identification Division and/or the New Jersey State Bureau of Identification in the Division of State Police.

NONSPONSORED YOUTH PROGRAMS

Any youth programs not sponsored by the Township of Washington but that utilize municipal facilities or have affiliation with a Township-sponsored youth program and having contact with person under the age of 18 years.

TOWNSHIP-SPONSORED YOUTH PROGRAMS

Any programs sponsored by the Township of Washington, including any and all leagues, boards and commissions falling within the purview of or acting for or on behalf of the Township of Washington and having contact with persons under the age of 18 years.

YOUTH PROGRAMS

Any programs that allow for participation in activities by those persons under 18 years of age. Activities may include, but are not limited to, sporting activities, passive recreation groups, clubs or camps and trips or other activities whereby some control and responsibility for children is assigned to some person acting for or on behalf of the Township other than a parent or caregiver.

§ 15-2 Nonsponsored youth programs.

- A. Prior to any club or organization not defined as a Township-sponsored youth program being authorized to use Township-owned facilities for functions participated in by children, all adults, those persons 18 years of age or older, in any way assisting in the function, including but not limited to coaches, assistant coaches, or similar positions, must provide the Township of Washington Recreation Superintendent with findings of a criminal background check obtained from the State Bureau of Identification in the New Jersey State Police.
- B. The submission of background check findings must be based upon a check performed within three years of the start of use of the Township-owned facility. In the case of coaches performing duties as employees of a school district, the policy of background checks adopted by the individual school district shall be used to establish eligibility for use of Township-owned facilities. In all cases, the background check must comply with the provisions of any applicable laws regarding same, but not less detailed than those performed by the Township for individuals involved in administering Township-sponsored youth programs. The cost of background checks for individuals not administering a Township-sponsored program shall be borne by the individual or program with which they are participating.

§ 15-3 Township-sponsored youth programs.

- A. All adults, those persons 18 years of age or older, including but not limited to coaches, assistant coaches, or similar positions involved in educating, directing or supervising youth, and in any way assisting in a Township-sponsored function participated in by children, shall submit sufficient information on forms supplied by the Township of Washington Recreation Superintendent from the New Jersey State Police, for the purpose of obtaining a criminal history background check with the State Bureau of Identification in the New Jersey State Police. Applications for background checks shall be processed by the Township of Washington Recreation Superintendent. Based upon the memorandum of understanding executed between the Township of Washington and the New Jersey State Police, the individual applying for the background check shall authorize the Recreation Superintendent to be the recipient of the affirmative or negative response from the State Police based upon the findings of the background check. Individuals involved in a Township-sponsored youth function, and who are required to undergo background checks based upon this chapter, shall not be responsible for the costs involved with obtaining the criminal background check. The Township of Washington shall bear the costs for the background checks for individuals qualified under this section.
- B. All league officers and/or those individuals in charge of each recreation program are required to ensure compliance with this chapter for that league or program. The president or leader of each recreation program shall file an annual roster of individuals that are required to participate in the background check procedures of this chapter. The roster shall be on forms supplied by the Township of Washington and shall contain a certification as to the accuracy and completeness of the roster and individuals names. Any person who knowingly certifies a background check roster that excludes an individual required to be checked shall be in violation of this chapter and laws regarding false swearing.

§ 15-4 Qualification.

Individuals engaged in providing recreation opportunities for, or on behalf of, the Township of Washington shall be issued identification cards with appropriate expirations based upon the date of their individual background check. Coaches' background check identification cards are required to be displayed while in performance of their duty involving youth programs as prescribed by this Code.

§ 15-5 Disqualification.

- A. Upon receipt of a completed background check conducted by the State Bureau of Identification in the New Jersey State Police and/or the Federal Bureau of Investigation, Identification Division, the Recreation Superintendent shall notify the applicant and the president or leader of the recreation program of affirmative or negative results. The determination of the Recreation Superintendent is based upon § 15-5B of this chapter. Details in the background check that result in a negative determination by the State Police are not afforded to the Recreation Superintendent and are only available to the applicant upon making a formal request to the State Bureau of Investigation.
- B. In the event the criminal background check reveals any prior convictions for crimes or offenses which negatively impact the health, safety and welfare of children, said person shall not be qualified to participate in any official capacity in any function for persons under the age of 18 years held at any Township-owned facilities. Such offenses shall include, but not be limited to:
- (1) In New Jersey, any crime or disorderly persons offense:
 - (a) Involving danger to the person, meaning those crimes and disorderly persons offenses set forth in N.J.S.A. 2C:11-1 et seq., N.J.S.A. 2C:12-1 et seq., N.J.S.A. 2C:13-1 et seq., N.J.S.A. 2C:14-1 et seq. or N.J.S.A. 2C:15-1 et seq.;
 - (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.;
 - (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.
 - (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 Subsection B(1) of this section.
- C. The 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 as indicated herein.

- D. Refusal by individuals required to submit to background checks will result in an immediate dismissal of the individual from any Township-sponsored activities requiring background checks. In addition, refusal to comply with this chapter by any individual falling within the scope of requirements for nonsponsored youth programs will forfeit that individual's ability to participate with the respective program. Refusal of a non-Township-sponsored youth program to subscribe to the requirements of this chapter shall forfeit that program's ability to use municipal facilities.

§ 15-6 Frequency of background checks.

- A. All nonsponsored youth programs that have individuals subject to this chapter shall supply background checks for all of its participants prior to the individual being able to participate at any function at a Township-owned facility to the extent covered by this chapter. Thereafter, every three years a new background check shall be submitted to the Recreation Superintendent.
- B. All Township-sponsored youth programs that have individuals subject to this chapter shall direct those individuals to the Recreation Superintendent for background checks prior to the individual being able to participate at any function sponsored by the Township of Washington. Thereafter, every three years a new background check shall be submitted to the Recreation Superintendent. Final approval shall consist of the Township of Washington receiving a letter of approval from the New Jersey State Police. Approved individuals are required to display their Township-issued coaches' background check identification card while in performance of their duty involving youth programs as prescribed by this Code.

§ 15-7 Privacy.

Any and all criminal background checks supplied to the Recreation Superintendent shall be filed and maintained in a secure and locked cabinet or room and shall not be available to the public. The Recreation Superintendent shall take appropriate steps to safeguard such records. The records shall be exempt from public disclosure under the common law or the New Jersey Right to Know Law. The records shall only be retained for such period of time as is necessary to serve their intended and authorized purpose.

§ 15-8 Violations and penalties.

Any person who violates any provision of this chapter shall be subject to the penalties as set forth in § 1-1 of the Township of Washington Code.”

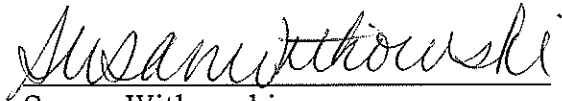
3. If any section, sub-section, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid such decision shall not affect the remaining portions of this Ordinance.

4. All Ordinances or any provisions of any ordinance inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistencies and not otherwise.

5. This Ordinance shall take effect upon final passage and publication and in accordance with the Charter, and subject to such emergency resolution as may be adopted pursuant to Section 17-32 thereof. [R.S. 40:69A-181 (b)].

ATTEST:

APPROVED:
TOWNSHIP COUNCIL OF THE
TOWNSHIP OF WASHINGTON



Susan Witkowski,
Township Clerk



Michael DeSena,
Council President

First Reading of Township Ordinance No. 18-22

Introduction Date: December 3, 2018

MOTION		SECOND		COUNCIL	AYES	NAYES	ABSTAIN	ABSENT
Bruno		Bruno		Bruno	X			
Cascio	X	Cascio		Cascio	X			
Cumming		Cumming	X	Cumming	X			
DeSena		DeSena		DeSena	X			
Ullman		Ullman		Ullman	X			

ATTEST:

APPROVED:
TOWNSHIP COUNCIL OF THE
TOWNSHIP OF WASHINGTON



Susan Witkowski,
Township Clerk



Michael DeSena,
Council President

Second Reading of Township Ordinance No. 18-22

Adoption Date: December 17, 2018

MOTION		SECOND		COUNCIL	AYES	NAYES	ABSTAIN	ABSENT
Bruno		Bruno		Bruno	x			
Cascio	X	Cascio		Cascio	x			
Cumming		Cumming		Cumming				x
DeSena		DeSena		DeSena	x			
Ullman		Ullman	X	Ullman	x			