

ORDINANCE 2023-6**AN ORDINANCE REPEALING CHAPTER 58 OF THE CODE OF THE TOWNSHIP OF MEDFORD "CRIMINAL HISTORY RECORD BACKGROUND CHECKS" AND REPLACING IT WITH AN AMENDED CHAPTER 58 "CRIMINAL HISTORY RECORD BACKGROUND CHECKS"**

WHEREAS, the Township Council of the Township of Medford declares and finds that the current Township Ordinance requiring criminal history background checks for volunteer and non-volunteers associated with Township youth and sports programs requires updates and is in need of revision, as requested by the Township's youth and sports organizations; and

WHEREAS, specifically, background check services can now be provided by third party contractors every two years consistent with guidelines promulgated by the National Council of Youth Sports; and

WHEREAS, additional technical revisions to the prior Ordinance have been suggested by the Township administration to reflect updates to the Township's current organizational structure and staffing; and

WHEREAS, the Township Council for the Township of Medford deems it to be in the best interests of its residents to adopt this Ordinance.

NOW THEREFORE BE IT ORDAINED by the Township Council of the Township of Medford in the County of Burlington and State of New Jersey, as follows: that the Code of the Township of Medford be hereby amended as follows:

SECTION ONE: Medford Township Chapter 58 entitled "Criminal History Record Background Checks" is hereby deleted and repealed.

SECTION TWO: A new Medford Township Chapter 58 entitled "Criminal History Record Background Checks", attached hereto and expressly made a part of this Ordinance, is hereby adopted.

SECTION THREE: *REPEALER, SEVERABILITY AND EFFECTIVE DATE*

- A. Any and all Ordinances and provisions thereof inconsistent with the provisions of this Ordinance shall be and are hereby repealed to the extent of such inconsistency
- B. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision and the remainder of this ordinance shall be deemed valid and effective.
- C. This Ordinance shall take effect immediately upon final passage and publication according to law.

Chapter 58. Criminal History Record Background Checks

§ 58-1. Purpose.

A. The purpose of this chapter is to provide for the safety of children engaged in activities sponsored by youth organizations by taking steps to provide for the reasonable assurance that volunteers for youth organizations and non-volunteers working with youth organizations have been subject to a criminal history record background check.

B. The focus of this chapter is to require volunteers and non-volunteers for youth organizations to obtain required mandatory background checks. As such, a youth organization and an individual administering a youth organization's compliance with this chapter will not be cited for failing to meet the requirements of this chapter unless the failure was a result of gross negligence or willful misconduct.

§ 58-2. Definitions.

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

CRIMINAL HISTORY RECORD BACKGROUND CHECK (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, the New Jersey State Bureau of Identification in the Division of State Police, and/or a private firm certified in the State of New Jersey to conduct said background checks.

NON-VOLUNTEER

Any adult individual of the age of 18 years or older who is employed by or compensated for his or her work in association with a youth organization as a trainer.

REVIEW COMMITTEE

A committee comprised of the Chief of Police, (or his/her designee), the Township Manager (or his/her designee) and one Township resident appointed to the Review Committee by Township Council.

TOWNSHIP FACILITY

- A. Any facility owned, leased or used by the Township or under the Township's control, including without limitation, Township offices, meeting rooms, parks, recreation and open space areas; or
- B. Any facility used for youth programs for which the Township pays usage fees.

VOLUNTEER

Any adult individual of the age of 18 years or older who volunteers his or her time and acts as a coach, leader, instructor, trainer or similar position for a youth organization.

YOUTH ORGANIZATION

- A. Any organized program with participants that are Medford residents under the age of 18 that:
 - (1) Are sponsored by the Township of Medford;
 - (2) Receive Township assistance for their programs and/or services; or

(3) Utilize Township facilities, including buildings and/or fields of play, on a regular or recurring basis.

B. "Youth organization" shall specifically include, but not be limited to, the Medford Youth Athletic Association (MYAA).

§ 58-3. Submission to background checks required; notifications; appeals; responsibilities of youth organizations; exceptions.

A. Mandatory background check. All individuals seeking to volunteer for or serve as a non-volunteer for youth organizations shall be required to submit to a mandatory background check. This requirement shall apply to new volunteers and non-volunteers as well as existing volunteers and non-volunteers, and the requirement may not be waived by the youth organizations or any other entity. Certified teachers who are currently teaching, law enforcement officers, federal agents who are authorized to carry a firearm, military defense contractor employees, or others who already obtain a similar background check may gain exemption by providing a copy of proof of passing their employer-processed background check to the youth organization and the Township Clerk. Determination as to whether the background check information provided is sufficient to meet the standards and intent of this chapter shall be made by the Chief of Police or his/her designee.

B. Process. All volunteers and non-volunteers shall be required to submit to a background check, which shall be conducted by the New Jersey State Police Bureau of Investigation, by a private firm certified in the State of New Jersey, or under the auspices of a national youth sports governing body meeting all criteria in the State of New Jersey to conduct said background checks. The results of the background check will be submitted to the Youth Organization, and the Youth Organization shall maintain the results as confidential. If the background check reveals that the volunteer or non-volunteer is currently charged with or has been previously convicted of any felony, any lesser crime involving force or threat of force, any lesser crime of a sexual nature or classified as a sex offense, any lesser crime involving controlled substances (not including paraphernalia or alcohol), any lesser crime involving cruelty to animals, and/or sex offender registrant under New Jersey's Megan's Law, and/or any lesser crime involving harm to a minor, including specific offenses as follows: (1) homicide, (2) assault, (3) endangering, threats, (4) kidnapping, (5) sexual offenses, (6) robbery, (7) theft, (8) offenses against the family, children and incompetents, or (9) possession, use, and/or distribution of a controlled dangerous substance 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, or such act that the Review Committee determines are grounds for disqualification, then the volunteer or non-volunteer shall be deemed to have failed the background check and shall not be permitted to be a volunteer or non-volunteer in any way for a youth organization.

C. Notification of failed background check. If an individual desiring to be a volunteer for or a non-volunteer associated with a youth organization fails the background check, the individual shall be notified of the failure in writing via certified and regular mail by the Youth Organization. The individual shall further be advised in writing of his or her right to an appeal hearing before the established Review Committee, which hearing must be requested within 20 days of the receipt of the notice.

D. Appeal hearing. If an appeal hearing is requested by the individual pursuant to this section, at the hearing, the Review Committee shall first state the reasons for the denial on the record, and the individual shall thereafter be permitted to state his or her reasons as to why he or she should still be permitted to be a volunteer or non-volunteer. The Review Committee shall thereafter render a decision on the individual's appeal by majority vote and may either permit the individual to be a volunteer or non-volunteer or reject the individual's appeal. The appeal may be granted or denied in the sole discretion of the Review Committee. The hearing may be conducted in executive session pursuant to the provisions of the Open Public Meetings Act.^[1]

(1) The factors to be considered by the Review Committee when considering and deciding an appeal include, but are not limited to:

- (a) Whether the results of the background check were accurate;
- (b) The nature and responsibility of the position for which the individual would hold or has held;
- (c) The nature and seriousness of the crime or offense;
- (d) The circumstances under which the crime or offense occurred;
- (e) The date of the crime or offense;
- (f) The age of the individual when the crime or offense was committed;
- (g) Whether the crime or offense was an isolated or repeated incident;
- (h) Any social conditions which may have contributed to the crime or offense;
- (i) Any evidence of rehabilitation, including good conduct in the community, counseling or psychiatric treatment received, and the acquisition of additional academic or vocational education and prior participation in youth organizations; and
- (j) The recommendation of those who have had experience with the individual.

(2) Within 10 days after the hearing, the Review Committee's decision shall be reduced to writing by the Review Committee and mailed by certified and regular mail to the individual.

[1] *Editor's Note: See N.J.S.A. 10:4-6 et seq.*

E. Youth organization obligations.

(1) The youth organization, through a designated officer or leader, shall use its best efforts to compile an annual roster of volunteers and non-volunteers who are required to participate in the background check procedures of this chapter. The youth organization shall sign the roster certifying to the best of the knowledge of the certifying officer or leader of the youth organization the accuracy and completeness of the roster and volunteers' and non-volunteers' names. The youth organization shall maintain records including the names of all known volunteers and non-volunteers and the date of their last background check. These records shall be disclosed upon request to the Township Manager or his/her designee to help ensure that all volunteers and non-volunteers are currently compliant with regard to the background check requirements.

(2) Identification cards shall be issued to all volunteers and non-volunteers who have submitted to and passed a background check, and the identification cards must be in the possession of the volunteer or non-volunteer whenever he or she is participating in any youth organization activities. If an identification card is issued to a volunteer or non-volunteer who is allowed to participate under the interim status provision of § 58-4B and that volunteer or non-volunteer later is deemed to have failed the background check, the youth organization shall immediately revoke and make reasonable efforts to confiscate the volunteer or non-volunteer's identification card.

(3) In the event that any youth organization already has a background check policy and procedure in place, the Township may accept the results from the administration of that policy, provided the policy and results are disclosed to the Review Committee and the Review Committee is satisfied that the policy and procedures are sufficient to satisfy the standards and purpose of this chapter.

F. De minimis exception. In order to avoid excessive administrative time and expense associated with irregular or de minimis use of Township fields or facilities by a youth organization, a volunteer or non-volunteer who uses Township fields or facilities three times or less per calendar year does not need to undergo the background checks process set forth in this chapter.

§ 58-4. Written consent; interim status.

A. Written consent. Each person seeking to participate in a youth organization as a volunteer or non-volunteer shall execute a written consent in favor of both the youth organization and the Township of Medford, and their respective agents, servants and employees, authorizing said investigation, releasing the youth organization and the Township, and their respective agents, servants and employees, from any liability arising from same, and holding them harmless, on forms to be provided by the Township. Failure to submit to said investigation will disqualify any such person from serving in the youth organization.

B. Interim status. When a person has submitted written consent, he or she shall have interim status to act as a coach, leader, instructor, trainer or the like for a youth organization while awaiting the results of the background check, provided that the person certifies that he or she has no reason to believe that he or she was found guilty of a crime that would result in his or her disqualification from service as a volunteer or non-volunteer under the terms of this chapter. Interim status shall be sufficient to act as a coach, leader, instructor, trainer or the like for a youth organization only until such time that the results of the background check are obtained.

§ 58-5. Frequency of background checks.

A background check administered under the provisions of this chapter shall be valid for no more than three years. At the expiration of three years, the volunteer must undergo a name check, but will not need to submit to subsequent fingerprinting in order to continue to serve as a volunteer.

§ 58-6. Limitations on access and use of criminal history background information.

A. Limitation on access. Access to criminal history record information for noncriminal justice purposes, including licensing and employment, is restricted to authorized personnel of the Township of Medford, and the applicable youth organization, on a need-to-know basis, as authorized by federal or state statute, rule or regulation, executive order, administrative code, local ordinance or resolution regarding obtaining and dissemination of criminal history record information obtained under this chapter.

B. Limitation on use. The Township, the Review Committee and the youth organizations shall limit their use of criminal history record information solely to the authorized purpose 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. Any persons violating federal or state regulations governing access to criminal history record information may be subject to criminal and/or civil penalties. The results of background checks shall not be subject to public disclosure and shall be retained only for a period of three years.

C. Authorized Users: Township officials with access to the criminal history record information shall

be limited to the following: Solicitor, Clerk, Deputy Clerk, the Review Committee and any other official specifically authorized by the Township Manager, provided he or she is a confidential employee and the Township Manager determines his or her involvement is necessary or useful in carrying out the terms and intentions of this chapter.

§ 58-7. Violations and penalties.


Any person, firm, corporation, association or legal party whatsoever who shall violate, or authorize or procure a violation, or cause to be violated, any provision of this chapter shall, upon conviction thereof, be punishable as provided under § 1-16 governing general penalty provisions.

Township of Medford

Ordinance 2023-6

An Ordinance Repealing Chapter 58 of the Code of the Township of Medford “Criminal History Record Background Checks” and Replacing it with an Amended Chapter 58 “Criminal History Record Background Checks”

The above entitled ordinance was passed on first reading at a meeting of the Township Council of the Township of Medford on May 2, 2023. It will be further considered for final passage after a public hearing at the regularly scheduled meeting to be held on May 16, 2023 at the Public Safety Building, 91 Union Street, Medford, New Jersey at 7:00 PM, at which time and place any persons desiring to be heard upon the same will be given the opportunity to be heard. Copies of this ordinance will be made available at the Municipal Clerk’s office to members of the general public who shall request them.


Katherine Burger, RMC
Municipal Clerk




Township of Medford

Notice of Final Adoption

Ordinance 2023-6

An Ordinance Repealing Chapter 58 of the Code of the Township of Medford “Criminal History Record Background Checks” and Replacing it with an Amended Chapter 58 “Criminal History Record Background Checks”

Notice is hereby given that the Ordinance as entitled above was adopted following second reading and public hearing at a regular meeting of the Township Council of the Township of Medford, County of Burlington, State of New Jersey, held at the Public Safety Building, 91 Union Street, Medford, New Jersey on May 16, 2023.


Katherine E. Burger
Municipal Clerk

