

WEST DEPTFORD TOWNSHIP

ORDINANCE 2021-29

**ORDINANCE OF THE TOWNSHIP OF WEST DEPTFORD, COUNTY OF GLOUCESTER,
STATE OF NEW JERSEY AMENDING CHAPTER 56, SECTION 7 OF TOWNSHIP CODE**

WHEREAS, Chapter 56, Section 7 of the Township Code governs criminal history background checks for employees and volunteers involved in recreation programs in the Township of West Deptford; and

WHEREAS, the Township Committee has determined that it is in the interest of the Township to amend Chapter 56, Section 7 to ensure that more comprehensive and timely background checks can be completed.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Township Committee of the Township of West Deptford, County of Gloucester, and the State of New Jersey, as follows:

1. Chapter 56 of the Township Code, Section 56-7, shall be and hereby is amended as follows:

§ 56-7. Criminal background checks of employees and volunteers involved in recreation programs.

A. Definitions.

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

CRIMINAL BACKGROUND CHECK — A determination of whether a person has a criminal record by cross-referencing that person's name and certain personal identifying information, such as date of birth, social security number, etc., as needed, with those on file with the Federal Bureau of Investigation, Identification Division and/or the NJ State Bureau of Identification in the Division of State Police.

NON-SPONSORED YOUTH PROGRAMS — Any youth programs not sponsored by the Township of West Deptford, but that utilize municipal facilities or have affiliation with a township-sponsored youth program and having contact with persons under the age of 18 years. This includes any and all leagues, boards and commissions, groups or clubs that receive an annual allotment from the Township of West Deptford and having contact with persons under the age of 18 years.

TOWNSHIP-SPONSORED YOUTH PROGRAMS — Any programs sponsored by the Township of West Deptford, including but not limited to the Summer Recreation Program.

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.

B. Non-sponsored youth programs — criminal background checks — required for use of West Deptford Township facilities.

- (1) 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 West Deptford Township Recreation Director with findings of a criminal background check. The submission of criminal background check findings must be based upon a check performed within three years of the start of use of the township-owned facility.
- (2) 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 or individuals involved in administering Township-sponsored youth programs.
- (3) The cost of criminal background checks for individuals not administering a township sponsored program shall be borne by the individual or program with which they are participating.
- (4) All league officers and/or those individuals in charge of each recreation program are required to ensure compliance with this section 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 criminal background check procedures of this section. The roster shall be on forms supplied by the Township of West Deptford and shall contain a certification as to the accuracy and completeness of the roster and individual names. Any person who knowingly certifies a criminal background check roster that excludes an individual required to be checked shall be in violation of this section and laws regarding false swearing.

Any league, club, organization or team who fails to comply with requirements of this Ordinance shall have its annual allotment withheld for the year it is noncompliant and shall be denied access/use of all Township facilities.

C. Township-sponsored youth programs — criminal background checks.

- (1) All adults, those persons 18 years of age or older, including but not limited to lifeguards, recreation counselors, or similar positions involved in educating, directing or supervising youth, and in any way assisting in a West Deptford Township-sponsored function participated in by children, shall submit sufficient information on forms supplied by the West Deptford Township Recreation Director, for the purpose of obtaining a criminal background check. Applications for criminal background checks shall be processed by the West Deptford Township Chief of Police.
- (2) The individual applying for the background check shall authorize the Chief of Police to be the recipient of the findings of the criminal background check.

- (3) Individuals involved in a West Deptford Township-sponsored youth function, and who are required to undergo criminal background checks based upon this section, shall not be responsible for the costs involved with obtaining the criminal background check. The Township of West Deptford shall bear the costs for the criminal background checks for individuals qualified under this section.

D. Qualification.

- (1) Individuals engaged in providing recreation opportunities for, or on behalf of, a sponsored or non-sponsored youth program shall be issued identification cards with appropriate expirations based upon the date of their individual criminal background check. Individuals issued identification cards are required to display their card while in performance of their duty involving youth programs.

E. Disqualification.

- (1) Upon receipt of a completed criminal background check, the Chief of Police shall notify the applicant and the President or leader of the recreation program of affirmative or negative results. The determination of the Chief of Police is based upon Subsection E(2) of this section. Details in the criminal background check that result in a negative determination by the State Police are not afforded to the Recreation Director and are only available to the applicant upon making a formal request to the Chief of Police.
- (2) 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:
 - (a) In New Jersey, any crime or disorderly persons offense:
 - [1] 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.;
 - [2] 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.;
 - [3] Involving theft as set forth in Chapter 20 of Title 2C of the New Jersey Statutes;
 - [4] 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.
 - (b) 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 E(2)(a) of this section.

- (3) 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,
- (4) Refusal by individuals required to submit to criminal background checks will result in an immediate dismissal of the individual from any township-sponsored activities requiring criminal background checks.
- (5) Failure to disclose criminal history shall be grounds for disqualification.

In addition, refusal to comply with this section by any individual falling within the scope of requirements for non-sponsored youth programs will forfeit those individuals ability to participate with the respective program. Refusal of a non-township sponsored youth program to subscribe to the requirements of this section shall forfeit that programs ability to use municipal facilities.

F. Appeal procedure.

- (1) Any person whose criminal 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 West Deptford Township Chief of Police, who shall coordinate the challenge with the criminal background check vender.
- (3) An appeal based on rehabilitation shall be made to an Appeals Committee, which shall consist of the Township Solicitor, the West Deptford Township Chief of Police, and the Township Administrator. Any such appeal must be made within 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.

G. Frequency of criminal background checks.

- (1) All non-sponsored youth programs that have individuals subject to this section shall supply criminal 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 section. Thereafter, every two years a new criminal background check shall be submitted to the Recreation Director.
- (2) All township-sponsored youth programs that have individuals subject to this section shall direct those individuals to the Chief of Police for criminal background checks prior to the individual being able to participate at any function sponsored by the Township of West Deptford. Thereafter, every three years a new criminal background check shall be submitted to the Chief of Police.

H. Township employment.

In the event of a negative determination arising from a criminal background check of a township employee subject to this section, eligibility for new employment and continued employment shall be determined in accordance with the policies and procedures with the Township of West Deptford.

Notwithstanding anything stated herein, the Township shall be permitted to perform criminal background checks on any other employee and/or prospective employee not covered by this provision in accordance with applicable law.

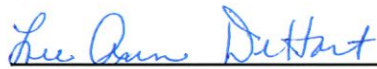
- I. Privacy. Any and all criminal background checks shall be supplied to the Chief of Police, filed and maintained in a secure and locked cabinet or room and shall not be available to the public. The Chief of Police shall take appropriate steps to safeguard such records. The records shall be exempt 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.
- J. Effective date. This section shall take effect on January 1, 2022.

BE IT FURTHER ORDAINED that this Ordinance shall take effect on January 1, 2022.

TOWNSHIP OF WEST DEPTFORD


~~DENICE DICARLO, Mayor~~
James P. Mehaffey, Deputy Mayor

ATTEST:


LEE ANN DEHART, Registered Municipal Clerk

INTRODUCED at a meeting of the Township Committee of the Township of West Deptford, held on December 1, 2021.

ROLL CALL VOTE				
	AYES	NAYS	ABSTAIN	ABSENT
Denice DiCarlo	/			
Megan Kerr	/			
James Mehaffey				/
Adam Reid	/			
James Robinson	/			
TALLY:	4			/

ADOPTED at a meeting of the Township Committee of the Township of West Deptford, held on December 15, 2021.

ROLL CALL VOTE				
	AYES	NAYS	ABSTAIN	ABSENT
Denice DiCarlo				/
Megan Kerr	/			
James Mehaffey	/			
Adam Reid				/
James Robinson	/			
TALLY:	3			2