

**ORDINANCE 2007-21**

**AN ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS,  
STATE OF NEW JERSEY, ESTABLISHING CRIMINAL HISTORY BACKGROUND  
CHECKS FOR VOLUNTEERS IN JOINT RECREATION PROGRAMS BETWEEN  
THE TOWNSHIP OF CHATHAM AND THE BOROUGH OF CHATHAM**

**BE IT ORDAINED** by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey that Chapter XX of the Township Code is hereby amended to add criminal history background checks for volunteers in the Joint Recreation Programs between the Township of Chatham and the Borough of Chatham as follows:

1. **20-4. Criminal History Background Checks**

**Preamble.** The Township of Chatham and the Borough of Chatham have established a joint recreation program. The Township and the Borough have determined that it is in the best interest of the residents of the Township and the Borough and the participants in the joint recreation program that all volunteers and employees who wish to participate in the program undergo criminal background checks prior to said participation. It is the intention of the Township and the Borough to adopt identical ordinances to accomplish this goal.

**20-4.a. Definitions.**

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

**CO-SPONSORED PROGRAM** — Any program, including but not limited to nonprofit youth-serving organizations as defined below, which receives benefits, either directly or indirectly, including to but not limited to the provision of funding and/or the provision of fields, facilities and/or equipment (and including the maintenance of same), from the Township of Chatham and/or the Borough of Chatham.

**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 the State Bureau of Identification in the Division of State Police.

**NON-PROFIT YOUTH-SERVING ORGANIZATIONS** — A corporation, association or other organization established pursuant to Title 15 of the Revised Statutes, Title 15A of the New Jersey Statutes or other law of the state, but excluding public and nonpublic schools, and which provides recreational, cultural, charitable, social or other activities or services for persons younger than 18 years of age, and is exempt from federal income taxes.

REVIEW COMMITTEE — A four-member committee consisting of the Chatham Township Administrator or designee, the Chatham Borough Administrator or designee, and Chiefs of Police or designees of the Township of Chatham and the Borough of Chatham, respectively. The Committee shall be charged with the review of all appeals of any Township or Borough employee or volunteer whose criminal history background check reveals a disqualifying criminal conviction.

SPONSORED PROGRAM — Recreation programs run directly and jointly by the Township of Chatham and the Borough of Chatham, including oversight, control and/or fiscal contribution.

STATE BUREAU OF IDENTIFICATION — The entity located within the New Jersey State Police responsible for retrieving criminal background information on individuals as requested by state, local or private entities.

EMPLOYEES — All full-time, part-time and seasonal employees of the Chatham Township Recreation Department or the Borough of Chatham Recreation Department.

COACH — Any person, whether paid or volunteer, involved with coaching or supervising participants in a nonprofit youth-serving organization, whether the title is coach, manager or another title consistent with these terms.

VOLUNTEER REVIEW OPERATION ("VRO") — The unit located within the State Bureau of Identification that is responsible for administering criminal background checks for volunteer coaches as specified in this chapter.

**§ 20-4.b. Requests for criminal background checks; costs.**

1. The Township of Chatham and the Borough of Chatham require that all coaches of nonprofit youth-serving organizations involved in sponsored or cosponsored programs request through the Chatham Township Recreation Department or the Borough of Chatham Recreation Department, as determined by the municipality of residence, that the State Bureau of Identification and the Federal Bureau of Investigation ("FBI") conduct a criminal history record background check on each prospective and current coach of nonprofit youth-serving organizations in accordance with N.J.A.C. 13:59-1.1 et seq. and with the procedures and guidelines adopted by the VRO. No person will be permitted to act as a coach until the results of the background checks have been received and reviewed by the Administrator of the Township of Chatham or the Borough of Chatham, respectively.

2. The Township and the Borough shall conduct a criminal history record background check only upon receipt of the written consent for a check from the prospective or current volunteer coach.

3. Any prospective or current coach of a nonprofit youth-serving organization who refuses to consent to this procedure shall not be permitted to participate in any sponsored or cosponsored programs involving nonprofit youth-serving organizations.

4. The Township and the Borough shall bear the costs associated with conducting criminal history record background checks for prospective or current coaches for sponsored programs, and all other nonprofit youth-serving organizations shall bear the costs for conducting checks for prospective or current coaches participating in cosponsored programs in accordance with the regulations established by the VRO. Said costs shall be paid out of the Joint Recreation Trust Account.

5. The Administrators of the Township and the Borough may set forth policies and procedures which shall not be inconsistent with this chapter.

6. The VRO shall advise the respective Administrator of the eligibility of the prospective or current coach under the law. Any information received by the Recreation Director shall be confidential.

7. Criminal history background checks will be performed for individuals under the age of 18 in accordance with N.J.A.C. 13:59-1.1 et seq. and with the procedures and guidelines adopted by the VRO.

**§ 20-4.c. Conditions under which a person is disqualified from service.**

1. A person may be disqualified from serving as a coach of a nonprofit youth-serving organization if that person's criminal history record background check reveals a disqualifying record in accordance with the provisions of N.J.S.A. 15A:3A-1 et seq.

2. In any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute a disqualifying record in accordance with N.J.S.A. 15A:3A-1 et seq. may also constitute grounds for disqualification.

**§ 20-4.d. Submission and exchange of background information pertaining to coaches.**

1. Prospective or current coaches of nonprofit youth-serving organizations for cosponsored programs shall submit their names, addresses, fingerprints, written consent, and any

other necessary information to the organization for the criminal history record background check to be performed. The organization shall submit this documentation to the respective Recreation Director, who shall coordinate the background check and refer the information to the State Bureau of Investigation for the background check. The respective Recreation Director or designee shall be responsible for obtaining the above information for all prospective and current volunteer coaches, who reside within their respective municipality, for all nonprofit youth-serving organizations, both sponsored and cosponsored programs. Thereafter, the Township and the Borough shall conduct periodic background checks after the date of the initial background check, but not less frequently than every 36 months.

2. The Administrators of the Township and the Borough shall be responsible for the maintenance of all records generated as a result of conducting criminal history record background checks pursuant to this chapter.

**§ 20-4.e. Limitations on access and use of criminal history record information.**

1. Access to criminal history record information for non-criminal justice purposes, including licensing and employment, is restricted to the members of the Review Committee, as authorized by federal or state statute, rule or regulations, executive order, administrative code, local ordinance or resolution regarding obtaining and disseminating of criminal history record information obtained under this chapter.

2. The Review Committee shall limit its 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 subject to criminal and/or civil penalties.

**§ 20-4.f. Determination by Review Committee; concerning coaches; appeal process.**

1. The VRO shall make a recommendation based on the provisions of N.J.S.A. 15A:3A-1 et seq. as to whether the prospective or current volunteer coach is being recommended. The VRO will provide the Administrator of the respective municipality with a letter of recommendation or non-recommendation for each individual for whom the VRO completed a background check.

2. The Administrator shall promptly notify a prospective or current coach who receives a letter of non-recommendation from the VRO. Individuals who receive a letter of non-recommendation from the VRO will not be permitted to participate as a coach. Such individuals may obtain a copy of their criminal history record by contacting the VRO in writing. The individuals shall then have 30 days from the receipt of notification from the Administrator to petition the Review Committee for a review and to cite reasons substantiating the review.

3. Individuals who receive a letter of non-recommendation from the VRO may be permitted to serve as a coach if they affirmatively demonstrate rehabilitation to the Review Committee. In determining whether a person has affirmatively demonstrated clear and convincing evidence of rehabilitation, the Review Committee may consider the following factors in conjunction with the provisions of N.J.S.A. 15A:3A-1 et seq.:

- (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 circumstance 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 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.

4. In all instances, the final determination of whether an individual will be permitted to serve as a coach will lie in the sole discretion of the Review Committee, whose vote must be unanimous.

5. The Review Committee shall promptly advise the prospective or current coach whether he or she is qualified to serve as a coach.

6. When the Administrator receives a letter of non-recommendation from the VRO, the Administrator may file that letter with the Police Departments of Chatham Township and Chatham Borough.

7. The Chatham Township Police Department shall keep the written notification on file for three years from the date it was issued.

8. The Administrator may request the applicable Police Department to review its files to determine if there is written notification on file stating whether a criminal history record background check of a current or prospective coach reveals a disqualifying offense or stating that the person has affirmatively demonstrated rehabilitation under this act.

2. This ordinance shall take effect as provided by law.

Introduced: November 8, 2007

Adopted: November 29, 2007

Attest:

TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY

BY: \_\_\_\_\_  
Kevin R. Tubbs, Mayor

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Joy M. Wiley, Clerk

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