

**ORDINANCE 2021:1505**

**AN ORDINANCE AMENDING ORDINANCE 2019:1480 SUPPLEMENTING THE GENERAL ORDINANCES OF THE BOROUGH OF HADDON HEIGHTS, CAMDEN COUNTY, NEW JERSEY, CHAPTER 24 BY ADDING A REQUIREMENT FOR CRIMINAL HISTORY BACKGROUND CHECKS FOR RECREATION EMPLOYEES, EMPLOYEES AND VOLUNTEERS**

**WHEREAS**, the municipal governing body of Borough of Haddon Height swishes to ensure that this municipality is providing the safest possible recreation programs for its youth; and

**WHEREAS**, the municipal governing body of the Borough of Haddon Heights has recommended that all employees or volunteers individuals of recreational, athletic, cultural, charitable, social or other activities, services or programs for persons younger than 18 years of age programs sponsored or co-sponsored by the Borough of Haddon Heights, or in connection with employment with the municipality of Haddon Heights or a volunteer in any youth service organizations, who have regular supervised or unsupervised access to minors involved in such programs, be required to submit to criminal history background checks at their own expense; and

**WHEREAS**, the of Borough of Haddon Heights would like all youth programs using municipal facilities, and all programs that are funded or supported by the Borough of Haddon Heights, in whole or in part (including but not limited to baseball, softball, soccer, football, basketball, etc.) be required to perform criminal background checks as a condition of using municipal facilities; and

**WHEREAS**, P.L. 1999, Chapter 432 (N.J.S.A. 15A:3A-1 et seq.) authorizes and provides for criminal history record background checks of employees and volunteers of non-profit youth serving organizations as defined in said statute; and

**WHEREAS**, N.J.S.A. 15A:3A-1 permits non-profit youth-serving organizations to request the Haddon Heights Police Department to perform a criminal background check on current and prospective employees or volunteers, 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**, P.L. 2003, Chapter 199, Section 34 (N.J.S.A 40:48-1.4) provides that a municipality may enact an ordinance providing that an authorized municipal official or officer may request a criminal history record background check of any person for an official governmental purpose, including, but not limited to, employment, licensing and the procurement of services; and

**WHEREAS**, the ordinance shall provide that the person shall submit to being fingerprinted in accordance with applicable State, federal laws, rules and regulations, and shall further provide that the official or officer is authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation.

**NOW, THEREFORE, BE IT ORDAINED** by the Borough Council of the Borough of Haddon Heights, in the County of Camden, State of New Jersey Chapter 24 of the Code of the Borough of amended to read as follows:

**SECTION 1:**

**§ 24-1. DEFINITIONS.**

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

**CRIMINAL HISTORY RECORD AND FINGERPRINT BACKGROUND CHECKS**

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 program not sponsored by the Borough of Haddon Heights, but that utilizes municipal facilities or has affiliation with a Borough-sponsored youth program, and having contact with persons under the age of 18 years.

**BOROUGH-SPONSORED YOUTH PROGRAMS**

Any programs sponsored by the Borough of Haddon Heights, including the Haddon Heights Borough Athletic Association and any and all leagues, boards and commissions falling within the purview of or acting for or on behalf of the Borough of Haddon Heights, 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 persons under 18 years of age is assigned to some person acting for or on behalf of the Borough of Haddon Heights other than a parent or caregiver.

**§ 24-2. NONSPONSORED YOUTH PROGRAMS.**

- A. Prior to any club or organization, not defined as a "Borough-sponsored youth program," being authorized to use Borough-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, shall submit a facilities use form, proof of insurance, a hold harmless agreement and a list of all positions defined herein that have successfully completed a background check to include but not limited to a fingerprint identification check and a check of Megan's Law directory for the State of New Jersey and any other State where the applicant previously resided.
- B. The submission of background check findings must be based upon a check performed within two years of the start of use of the Borough-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 Borough-owned facilities. In all cases, the background check must comply with the provisions of any applicable laws regarding same, but not be less detailed than those performed by the Borough for

individuals involved in administering Borough-sponsored youth programs. The cost of background checks for individuals not administering a Borough-sponsored youth program shall be borne by the individual or program with which they are participating.

**§ 24-3. BOROUGH-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 Haddon Heights Borough-sponsored function participated in by children shall submit sufficient information on forms supplied by the Haddon Heights Borough Police Department 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 Haddon Heights Borough Chief of Police. The individual applying for the background check shall authorize the Haddon Heights Borough Chief of Police 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 Haddon Heights Borough-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 Borough of Haddon Heights shall bear the costs for the background checks for individuals qualified under this section, subject to the provisions of Subsection C of 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 through the Chief of Police to the Haddon Heights Borough Police Department Records Bureau in order to properly maintain the system. The roster shall be on forms supplied by the Borough of Haddon Heights and shall contain a certification as to the accuracy and completeness of the roster and individual 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.
- C. Individuals who submit a fully compliant application for reimbursement of costs associated with criminal background checks to any agency or foundation that provides for such reimbursement shall, upon receipt of said monies, transmit same to the Borough. In no event, however, shall the Borough receive any monies in excess of the costs paid by the Borough pursuant to Subsection A of this section.

**§ 24-4. IDENTIFICATION CARDS.**

Individuals engaged in providing recreation opportunities for or on behalf of the Borough of Haddon Heights shall be issued identification cards with appropriate expirations based upon the date of their individual background check. Individuals issued identification cards are required to display their card while in the performance of their duty involving youth programs.

**§ 24-5. DISQUALIFICATION; NONCOMPLIANCE.**

- 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 Haddon Heights Borough 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 State Police and/or Federal Bureau of Investigation shall be based upon Subsection B of this section. Details in the background check that result in a negative determination shall not be disclosed to any other Borough official or employee 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 capacity in any function for persons under the age of 18 years held at any Borough-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 dangerous substance analog as set forth in Chapter 35 of Title 2C of the New Jersey Statutes.
  - (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 Borough-sponsored activities requiring background checks. In addition, refusal to comply with this chapter by any individual falling within the scope of requirements for non-sponsored youth programs will forfeit that individual's ability to participate with the respective program. Refusals of a non-sponsored youth program to subscribe to the requirements of this chapter shall forfeit that program's ability to use municipal facilities.

**§ 24-5.1. APPEAL PROCEDURE.**

- A. Any individual whose criminal history background check disqualifies that individual from volunteering and participating may appeal his or her disqualification as follows:
  - (1) An individual may challenge the accuracy of the criminal history record.
  - (2) A person may claim to be rehabilitated to the extent that it should permit qualification.
  - (3) No individual may appeal a disqualification on the grounds of rehabilitation if the individual has been disqualified because that individual has been convicted, adjudicated delinquent or acquitted by reason of insanity of the offenses enumerated in § 24-5B of this chapter.
  
- B. A challenge to the accuracy of the report shall be filed with the Haddon Heights Borough Chief of Police, who shall investigate the challenge with the New Jersey State Police.
  
- C. An appeal based on rehabilitation shall be made to an Appeals Board which shall consist of the Director of Parks and Recreation, the Director of Public Safety and the Haddon Heights Borough Chief of Police. Any such appeal must be made within 30 days of receipt of the notice of disqualification and filed, in writing, with the Haddon Heights Borough Chief of Police in an envelope marked confidential.
  
- D. In determining whether a person has affirmatively demonstrated rehabilitation, the Appeals Board shall consider the following factors:
  - (1) The nature and responsibility of the position which the individual would hold if approved.
  - (2) The nature and responsibility of any previous similar positions held related to youth activities and youth sports activities.
  - (3) The nature and seriousness of the offense.
  - (4) The circumstances under which the offense occurred.
  - (5) The date of the offense.
  - (6) The age of the person when the offense was committed.
  - (7) Whether the offense was an isolated or repeated incident.
  - (8) Any other evidence considered relative concerning rehabilitation, including community service or the recommendation of those who have had the individual under their supervision or who have a work or community history with the individual.
  
- E. If the Appeals Board determines that the disqualified individual has been successfully rehabilitated, it shall enter that individual's name on the list of qualified individuals maintained by the Haddon Heights Borough Police Department. If the Appeals Board denies the appeal, it shall advise the individual in writing. All appeals and information relating to an appeal shall remain confidential.

#### **§ 24-6. FREQUENCY OF BACKGROUND CHECKS.**

- A. All non-sponsored youth programs that have individuals subject to this chapter shall supply background checks for all of their participants prior to the individual being able to participate at any function at a Borough-owned facility to the extent covered by this chapter. Thereafter, every two years, a new background check procedure shall be required.
- B. Borough-sponsored youth programs.
  - (1) All Borough-sponsored youth programs that have individuals subject to this chapter shall direct those individuals to the Haddon Heights Borough Police Department for the background check submission forms which shall be processed through the Chief of Police prior to the individual being able to participate in any function sponsored by the Borough of Haddon Heights. Thereafter, every two years, a new background check shall be required.
  - (2) Individuals involved in Borough-sponsored youth programs who are required to undergo background checks shall be given an interim approval for participation only after submission to the Division of State Police for a background check. Interim approvals shall only be valid for the period of time that it takes to receive background check results. Such interim approval shall not be valid for a period of time exceeding 45 days. Only one interim approval may be granted per individual.

#### **§ 24-7. PRIVACY.**

Any and all criminal background checks obtained from the State Bureau of Identification in the New Jersey State Police or the Federal Bureau of Investigation shall be filed and maintained in a secured and locked cabinet or room at the Haddon Heights Police Department Records Bureau in the Criminal Investigation Section, which shall take custody and maintain such records, which shall not be available to the public. The Haddon Heights Borough Police Department personnel in the Records Bureau shall take appropriate steps to safeguard such records. The records shall be exempt from public disclosure under the common law, the Open Public Records Act and the New Jersey Right to Know Law. In addition, the Haddon Heights Borough Chief of Police shall not reveal the affirmative or negative response from the State Police based upon the findings of the background check, except as provided in this chapter. No Haddon Heights Borough official or employee shall have access to the criminal background checks other than individuals in the Haddon Heights Borough Police Department Records Bureau, whose only access shall be to take custody and maintain the files as provided for in this section. The records shall only be retained for such period of time as is necessary to serve their intended and authorized purpose. The Haddon Heights Borough Chief of Police shall be the contact person for Haddon Heights Borough for the VRO Program of the State Police.

#### **§ 24-8. VIOLATIONS AND PENALTIES.**

Any person violating or failing to comply with the provisions of this chapter shall, upon conviction thereof, be punished by a fine of not more than \$500 or by imprisonment for a term not to exceed 90 days, or by both such fine and imprisonment, in the discretion of the Judge.

**§ 24-9. ENFORCEMENT.**

The Borough of Haddon Heights, through its designated agents, including the Borough Police Department, shall diligently enforce the provisions of this chapter.

**SECTION 2:** All other Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.


**SECTION 3:** If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such subdivision, clause or provision and the remainder of this Ordinance shall be deemed valid and effective.

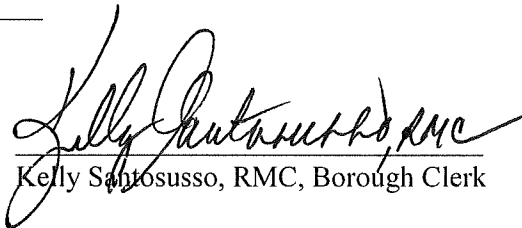
**SECTION 4:** This Ordinance shall take effect immediately upon final passage and publication a required by law.

Introduced: April 20, 2021

Public Hearing: May 4, 2021

Adopted: May 4, 2021

  
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Council President Scott Schreiber

ATTEST:   
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Kelly Santosusso, RMC, Borough Clerk

**CERTIFICATION**

I, Kelly Santosusso, RMC, Clerk of the Borough of Haddon Heights do hereby certify that the foregoing is a true copy of an Ordinance adopted by the Council of the Borough of Haddon Heights in the County of Camden, State of New Jersey on \_\_\_\_\_, 2021.

\_\_\_\_\_  
Kelly Santosusso, RMC, Borough Clerk