

****ADOPTED SEPTEMBER 13, 2010****

**DELANCO TOWNSHIP
ORDINANCE 2010-13**

**CREATING CHAPTER 130 GOVERNING
“BACKGROUND CHECKS”**

WHEREAS, the Township Committee of the Township of Delanco (“Township”), desires to ensure that its public recreation facilities and resources are utilized by and for the benefit of the positive development of its youth; and

WHEREAS, ensuring background checks for criminal history of volunteers working with Delanco youth will further ensure this goal; and

WHEREAS, the Township Committee finds the adoption of background check requirements to be in the best interests of the health, safety and welfare of its residents.

NOW, THEREFORE, BE IT HEREBY ORDAINED by the Township Committee of the Township of Delanco, County of Burlington, State of New Jersey that Chapter 130 is hereby created as follows:

Chapter 130. Background Checks.

§ 130-1. Purpose.

The purpose of this article is to provide for the safety of children engaged in youth organizations by taking steps to provide for the reasonable assurance that employees and volunteers for youth organizations have been subject to a criminal history record background check.

§ 130-2. Definitions.

As used in this article, 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.

EMPLOYEE — Any adult individual of the age 18 years or older that is employed as a coach, trainer, staff or the like for a youth organization.

VOLUNTEER — Any adult individual of the age 18 years or older that volunteers his or her time as a coach, leader, instructor or the like for a youth organization. Any teacher, coach or volunteer in a school-based program shall not be subject to these provisions, but shall abide by the school's requirements with regard to background checks.

YOUTH ORGANIZATION— Any organized program with participants that are Delanco residents under the age of 18 that are sponsored by the Township of Delanco; receive Township

funding for their programs and/or services; or utilize municipal facilities including buildings and/or fields of play on a regular or recurring basis. Youth programs shall specifically include, but not be limited to the Delanco Youth Sports Association, Boy Scouts, Girl Scouts, Cub Scouts, and/or Brownies.

§ 130-3. Submission to background checks; appeal hearing; youth organization obligations.

A. Mandatory background check. All individuals seeking to be employed by or volunteer for youth organizations shall be required to submit to mandatory background checks, as defined above. This requirement shall apply to new employees or volunteers as well as existing employees or volunteers, and the requirement may not be waived by the youth organizations or any other entity. This process shall be administered by the Township Clerk or their designee, provided the designee is a confidential employee.

B. Process. All employees or volunteers shall be required to submit to a background check which shall be conducted by the Delanco Township Police Department. If the employee or volunteer is found to be currently charged or previously convicted with any felony, or any misdemeanor involving fraud, misrepresentation, dishonesty, violence; or in any way involving a child; or involving any controlled dangerous substance or controlled substance analog as set forth in Chapter 35 of Title 2C of the New Jersey Statutes, except N.J.S.A. 2C:35-1.0(a)(4); or such act that the Township determines are grounds for disqualification, then that person shall be deemed to have failed the local background check and shall not be permitted to be employed by or volunteer in any way for a youth organization. If there is no such finding, then the employee or volunteer will be deemed to have passed the background check and shall be permitted to be employed by or volunteer for a youth organization.

C. Appeal hearing. If an individual desiring to be an employee or volunteer for a youth organization fails the background check, the individual shall be notified of the failure in writing via certified and regular mail, with the reasons for the rejection stated therein. The individual shall further be advised in writing of his or her right to a hearing before the Township Committee, which hearing must be requested within 20 days of the receipt of the notice. If a hearing is requested by the individual pursuant to this section, the 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 they should still be permitted to be an employee or volunteer. The Committee shall thereafter render a decision on the individual's appeal and may either permit the individual to be an employee or volunteer or reject the individual's appeal. The Committee's decision shall, within 10 days after the hearing, be reduced to writing by the Township Clerk and mailed certified and regular mail to the individual. A hearing under this section may be conducted in executive session pursuant to the provisions of the Open. Public Meetings Act.

D. Youth organization obligations.

(1) All youth organization officers or leaders are required to make all reasonable efforts to comply with the requirements of this article. It is the responsibility of the youth organization to coordinate with the Delanco Township Police and the Municipal Clerk to ensure annual background checks are being administered in

compliance with this chapter. The youth organization, through a designated officer or leader, shall file an annual roster of employees and volunteers that are required to participate in the background check procedures of this chapter. The youth organization shall sign the roster certifying the accuracy and completeness of the roster and employees' and volunteers' names.

2) The youth organization shall maintain records including the names of all employees and volunteers and the date of their last background check. These records shall be disclosed annually to the Township Clerk to ensure that all employees and volunteers are current with regard to the background check requirements.

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

§ 130-4. Written consent; interim status.

A. Written consent. Each person seeking to participate in a youth organization as an employee or volunteer shall execute a written consent in favor of both the youth organization and the Township of Delanco, its agents, servants and employees, authorizing said investigation, releasing the Township, and its agents, servants and employees from any liability arising from same, and holding them harmless. 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, they shall be provided interim status to engage in employment or volunteering while awaiting the results of the background check, provided the person certifies that they have no reason to believe that they were found guilty of a crime that would result in their disqualification from service as an employee or volunteer under the terms of this chapter. Interim status shall be sufficient to be employed or volunteer only until such time that the results of the background check are obtained.

§ 130-5. Frequency of background checks.

A background check administered under the provisions of this chapter shall be valid for three years. At the expiration of three years, the employee or volunteer must undergo a new background check in order to continue to serve as an employee or volunteer.

§ 130-6. 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 Delanco 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 article.

B. Limitation on use. The Township 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 for authorized purposes. 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 shall not be subject to public disclosure and shall be retained only for such period of time as is necessary to serve their intended and authorized purpose. Township officials with access to the criminal history record information shall be limited to the following Committee, Solicitor, Administrator, Clerk, Deputy Clerk, and any other official specifically authorized by the Administrator, provided they are a confidential employee and the Administrator determines their involvement is necessary or useful in carrying out the terms and intentions of this chapter.

§ 130-7. 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 article shall, upon conviction thereof, be punishable as provided under § 1-14 governing General penalty provisions.

Section 2. Repealer. Any Ordinances inconsistent with this ordinance is hereby repealed to the extent of its inconsistency.

Section 3. Severability. If any provision of this Ordinance is deemed unlawful by a Court is found to be contrary to law by a court of competent jurisdiction, such provision shall be of no force or effect; but the remainder of this Agreement shall continue in full force and effect.

Section 4. Effective date. This Ordinance shall take effect upon proper passage in accordance with the law.