

Not Adopted

**BOROUGH OF SPRING LAKE
COUNTY OF MONMOUTH**

ORDINANCE NO. 2010-002

AN ORDINANCE AMENDING AND SUPPLEMENTING PART I, "ADMINISTRATIVE LEGISLATION," CHAPTER XII, "BACKGROUND CHECKS," OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF SPRING LAKE, NEW JERSEY.

WHEREAS, the Mayor and Council of the Borough of Spring Lake wish to ensure that this municipality is providing the safest possible recreation programs for its youth; and

WHEREAS, the Mayor and Council of the Borough of Spring Lake have recommended that all employees and volunteers 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 Spring Lake, or in connection with the Borough of Spring Lake Recreation Department or any other youth serving organizations, who have regular supervised or unsupervised access to minors involved in such programs, be required to submit to criminal history background checks; and

WHEREAS, the municipality of would like all youth programs using municipal facilities, and all programs that are funded or supported by the municipality of, 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. **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 State Police 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 (NJ.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; and

NOW, THEREFORE, BE IT HEREBY ORDAINED, by the Mayor and Borough Council of the Borough of Spring Lake, in the County of Monmouth and State of New Jersey, as follows:

SECTION I

That Part I, "Administrative Legislation," Chapter XII, "Background Checks," of the "Revised General Ordinances of the Borough of Spring Lake, New Jersey" is hereby amended and supplemented as follows:

Part I, "Administrative Legislation," Chapter XII, "Background Checks," is deleted and replaced with as follows:

Chapter XII

CRIMINAL HISTORY BACKGROUND CHECKS

Required for Employees and Volunteers Involved with Borough-Sponsored Programs Involving Minors

§ 12-1. Definitions.

§ 12-2. Request for criminal history background check; costs.

§ 12-3. Conditions under which person is disqualified from service.

§ 12-4. Submissions, exchange of background check information.

§ 12-5. Limitations on access of criminal history record information.

§ 12-6. Employee or volunteer may challenge accuracy of report.

§ 12-7. Required notification by employee or volunteer of a subsequent disqualifying offense.

§ 12-8. Persons Participating in Youth Programs.

§ 12-1. Definitions.

As used in this ordinance:

A. **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.

B. **DEPARTMENT** — The Borough of Spring Lake Police Department.

C. **BOROUGH-SPONSORED PROGRAMS** — Any programs sponsored by the borough and/or which utilize borough facilities or borough property.

D. **CRIMINAL HISTORY RECORD INFORMATION** - Information collected by criminal justice agencies concerning persons and stored in the computerized databases of New Jersey Courts and/or Law Enforcement Agencies or other states' computerized repositories containing criminal history record information consisting of identifiable descriptions and notations of arrests, indictments, or other formal criminal charges, and any dispositions arising there from, including convictions, dismissals, correctional supervision and release.

§ 12-2. Request for criminal background check; costs.

The borough requires that all new employees hired, persons acting as agents on behalf of the Borough, Borough officers, part time officials, and persons in voluntary service for the Borough, including those involved with borough-sponsored programs involving minors submit to a criminal history record background check.

B. The Division of State Police shall inform the designated department whether the person's criminal history record background check reveals a conviction of disqualifying crime or offense as specified in Section § 12-3.

C. A criminal history record background check shall be conducted only upon receipt of the written consent to check from the prospective or current employee or volunteer.

D. The borough shall bear the costs associated with conducting criminal background checks.

§ 12-3. Conditions under which person is disqualified from service.

A person may be disqualified from serving as an employee or volunteer of a borough sponsored program involving minors if that person's criminal history background check reveals a record of conviction of any of the following crimes and offenses.

(1) In New Jersey, any crime or disorderly person offense:

(a) Involving danger to the person, meaning those crimes and disorderly persons offenses set forth in N.J.S. 2C:11-1 et seq., N.J.S. 2C:12-1 et seq., N.J.S. 2C:13-1 et seq., N.J.S. 2C:14-1 et seq. or N.J.S. 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. 2C:24-1 et seq.; [Amended 3-20-06 By Ord. No. 2006-10]

(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 substance analog as set forth in Chapter 35 of Title 2C of the New Jersey Statutes, unless the substance referenced therein was obtained directly, or pursuant to a valid prescription or order form from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by P.L. 1970, c.266(C.24:21-1 et seq.).

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 1 of this section.

3. Criminal history records may be waived by a decision of the Mayor and Council.

§ 12-4. Submissions, exchange of background check information.

Individuals subject to a background check under § 12-3 shall submit their name, address, fingerprints and written consent to the borough for the criminal history record background check to be performed. The organization shall submit this documentation to the Borough of Spring Lake Chief of Police who shall coordinate the background check.

§ 12-5. Limitations on access of criminal history record information.

A. Access to criminal history information for noncriminal justice purposes, including licensing and employment is restricted to authorized personnel of the designated department, on a need to know basis, as authorized by federal or state statute or rule or regulation, executive order, administrative code, local ordinance or resolution.

B. The borough shall limit its use of the criminal history record information solely to the authorized purpose for which it was obtained and the criminal history record information furnished shall not be disseminated to persons or organizations not authorized to receive such information. 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. All record shall be destroyed immediately after it has served its intended and authorized purpose. Any person

violating federal or state regulations governing access to criminal history record information may be subject to criminal and/or civil penalties.

§ 12-6. Employee or volunteer may challenge accuracy of report.

If this criminal history record may disqualify an applicant for any purpose, the person making the determination shall provide the applicant with an opportunity to complete and challenge the accuracy of the information contained in the criminal history record. The applicant shall be afforded a reasonable period of time to correct and complete this record. A person is not presumed guilty of any charges or arrests for which there are not final dispositions indicated on the record.

§ 12-7. Required notification by employee or volunteer of a subsequent disqualifying offense.

Should an employee or volunteer be convicted of a disqualifying crime or offense as specified in Section § 12-3 after he or she has cleared the required background check, he or she must notify the Borough Administrator immediately.

§ 12-8. Persons Participating in Youth Programs.

a. **Mandatory Check.** In the interest of child safety, the Borough Council of the Borough of Spring Lake determines that any person, eighteen (18) years of age or older, at the time of commencement of participation in any youth activity, regardless of the capacity (whether as a volunteer or employee), for any program that is organized by the Borough of Spring Lake or any Spring Lake-based organization that utilizes Borough facilities must undergo a mandatory criminal history record background check.

b. **Recognition of Comparable Record Check Programs.** Any person who has undergone a record check in other than the program that is utilized by the Borough may request enrollment into the Borough plan so long as it is within six (6) months from the date of the application in a comparable background record check program, provided that it meets the threshold standards of the program utilized by the Borough of Spring Lake.

Any person who has undergone a record check in other than the program utilized by the Borough must provide the results of that check in writing before participating in any youth activity.

c. **Term of Effectiveness.** A person whose primary residence does not change must renew his or her enrollment in the background record check program every five (5) years if the person wishes to continue as a volunteer or employee with the youth program within the Borough.

Any person who changes his or her residence must file a change of address notice with the Borough. Any person changing his or her residence outside the Borough of Spring Lake must undergo the full, mandatory criminal history record background check in order to be requalified.

d. **Exemptions.** Any celebrity guests or one-time visitors will be allowed to participate in programs within the Borough so long as they are under the supervision of an approved record-check participant. Additionally, this subsection does not apply to volunteers and employees of teams or organizations that are not based in the Borough of Spring Lake .

e. Oversight. The Spring Lake Chief of Police or his designated representative shall act as the program coordinator and work with the Borough Board of Recreation Commissioners, the Recreation Committee, or any other organization in administering this program.

f. Appeals. Appeal from any decision to decline an applicant from participation in any activities covered by this article will be handled by the Borough Administrator. The Borough Administrator, at his or her discretion, may establish a review panel to review and decide any appeals.

INTRODUCED:

ADOPTED:

APPROVED: _____
JENNIFER NAUGHTON, Mayor

Attest:

JANE L. GILLESPIE, BOROUGH CLERK