

TOWNSHIP OF LOWER, COUNTY OF CAPE MAY, STATE OF NEW JERSEY

ORDINANCE #2025-24

Title: AN ORDINANCE AMENDING CHAPTER 475, PARKS AND RECREATION AREAS, OF THE CODE OF THE TOWNSHIP OF LOWER, TO ENACT ARTICLE V, YOUTH SPORTS VOLUNTEER BACKGROUND CHECKS, TO CODIFY EXISTING CRIMINAL HISTORY BACKGROUND CHECK REQUIREMENTS FOR RECREATION EMPLOYEES AND VOLUNTEERS ASSISTING WITH YOUTH SPORT PROGRAMS

WHEREAS, the Township Council of the Township of Lower strives to ensure that the Township is providing the safest possible recreation programs for the Township's youth; and

WHEREAS, the Township of Lower requires 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, sponsored or co-sponsored by the Township of Lower or in connection with the Township of Lower 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 Township of Lower requires that all employees and volunteers seeking to assist youth programs utilizing municipal facilities, and all programs that are funded or supported by the Township of Lower, in whole or in part (including, but not limited to baseball, softball, soccer, wrestling, football, basketball, etc.), be subjected to criminal history 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 New Jersey State Police to perform criminal background checks 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 permitting an authorized municipal official or officer to 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, said statute further provides that the Ordinance shall require the person to submit to fingerprinting in accordance with applicable State and federal laws, rules and regulations, and shall authorize the municipal official or officer 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 AND ENACTED by the Township Council of the Township of Lower, County of Cape May, State of New Jersey as follows:

Section 1. Chapter 475, Parks and Recreation Areas, is hereby amended to enact new Article V, Youth Sports Volunteer Background Checks, as follows:

ARTICLE V Youth Sports Volunteer Background Checks

475-17 Purpose

The purpose of this ordinance is to safeguard the youth programs of the Township of Lower by (a) requiring criminal history background checks and fingerprinting for employees and volunteers of

programs involving minors; (b) authorizing municipal officials to request criminal history record checks for official governmental purposes including employment, licensing and procurement of services; and (c) thereby ensuring the safety of minors participating in municipal-sponsored or municipally-facilitated activities.

475-18 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, fingerprints, social security number and date of birth, with those on file with the Federal Bureau of Investigation, Identification Division and the State Bureau of Identification (SBI) in the New Jersey State Police.

Criminal History Record Information

Information collected by criminal justice agencies concerning persons and stored in the computerized database of the New Jersey State Police SBI Criminal History Information System, the National Law Enforcement Telecommunications Systems or other state 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 therefrom, including convictions, dismissals, correctional supervision and release.

Chief of Police

The Township of Lower Chief of Police and his/her designee.

Employee

An individual sixteen (16) years of age or older who receives compensation from the Township or a youth program to perform services for a youth program and has the potential for unsupervised direct access to youth.

Notification

The responses provided by the Department of Law and Public Safety, Division of State Police, to the request for a criminal history background check pursuant to N.J.S.A. 15A:3a-1 et seq.

Qualified Participant

An employee or volunteer who has completed a criminal history background check revealing no disqualifying information.

Sponsored Program

Any youth program which receives benefits, either directly or indirectly, including but not limited to the provision of funding or equipment from the Township.

Supported Programs

Any program which, while not directly sponsored by the Township with funding, the providing of equipment or other benefit, uses Township facilities, including but not limited to sports fields and Township buildings. Supported programs include both teams all of whose participants are residents of the Township as well as non-resident teams which may or may not include resident participants.

It specifically excludes teams which are invited by the supported programs to compete on Township facilities.

Unsupervised Direct Access to Minors

The ability to have interaction with a person who is younger than eighteen (18) years of age without the constant and uninterrupted observation of a parent or guardian of the youth or without the constant and uninterrupted observation of a representative of law enforcement or a supervising qualified participant.

Volunteer

Any individual sixteen (16) years of age or older who on an uncompensated basis performs services for a youth program or service and has the potential for unsupervised direct access to youth.

Volunteer Review Operation

The unit located within the State Bureau of Investigation in the New Jersey State Police that is responsible for administering criminal background checks for volunteers and employees for youth programs as specified in this Chapter.

Youth

Any individual under eighteen (18) years of age.

Youth Programs

Any program which allows for participation in activities or services by persons under eighteen (18) years of age, including but not limited to, sporting activities, passive recreation groups, clubs, camps, field trips, cultural organizations, social groups and other activities or services. Specifically included are such organizations as volunteer fire companies, emergency management and medical organizations and ambulance squads. Specifically excluded are public and non-public schools.

475-19 Background Check Requirement

- A. All applicants for employment, volunteer service, licensing, or procurement of services with the Township of Lower, or with youth serving organizations using Township facilities or funded or supported by the Township of Lower, who will have regular supervised or unsupervised access to minors, must submit to a background check at their own expense, as a condition of obtaining or maintaining such role or service.
- B. No applicant shall be permitted to commence employment or volunteer service, or to be licensed or retained, unless and until the background check requirement and fingerprinting (if required) has been satisfied.
- C. All youth-serving organizations that use municipal facilities of the Township of Lower, or receive municipal funds or support in whole or in part from the Township of Lower, shall require all employees and volunteers who will have regular access to minors to submit to background checks and fingerprinting pursuant to this ordinance.

475-20 Fingerprinting and State/Federal Background Checks

- A. In accordance with N.J.S.A. 40:48-1.4 and P.L. 2003, c. 199, §34, the applicant shall submit to fingerprinting in accordance with State and federal laws, rules and regulations.
- B. The designated municipal 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 FBI.

475-21 Disclosure and Authorization

- A. Applicants must sign a disclosure and authorization form provided by the Township of Lower or the youth serving organization, which authorizes the municipal official or officer to obtain and review the applicant's criminal history record information.
- B. The failure to sign such authorization constitutes a disqualification for the position, service, license or procurement arrangement.

475-22 Disqualifying Offenses

- 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 Township of Lower Chief of Police or designee shall notify the applicant and the President or leader of the recreation program of affirmative or negative results. Details in the background check that result in a negative determination by the State Police are not afforded to the Chief of Police 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 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:
 - 1) In New Jersey, any crime or disorderly persons offense:
 - i. 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.;
 - ii. Against the family, children or incompetents, meaning those crimes and disorderly persons offenses set forth in N.J.S. 2C:24-1 et seq.;
 - iii. Involving theft as set forth in Chapter 20 of Title 2C of the New Jersey Statutes;
 - iv. 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. 2C:35-10; or
 - v. Any 4th degree offense or higher.
 - 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 a. 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 Township-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. Refusal of a Non-Township Sponsored Youth Program to subscribe to the requirements of this chapter shall forfeit that program's ability to use municipal facilities.

475-23 Review and Appeal

- A. In the event that the criminal history record check discloses a possible disqualifying record, the municipal official or officer shall notify the applicant in writing, providing the nature of the record and an opportunity to respond.
- B. The applicant shall have the right to provide additional information, including certified disposition of the record, evidence of rehabilitation, or any other material mitigating factors.
- C. The municipal official or officer shall make the final determination, and if the applicant is disqualified, shall state the reasons in writing. The decision of the municipal official or officer may be appealed to the governing body of the Township of Lower, pursuant to procedures adopted by the Township.

475-24 Frequency of Background Checks

- A. All Non-Sponsored Youth Programs that have individuals subject to this chapter shall supply 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 chapter. Thereafter, every three (3) years a new background check shall be submitted to the Chief of Police, Township Administrator or Township Solicitor.
- B. All Township Sponsored Youth Programs that have individuals subject to this chapter shall direct those individuals to the Chief of Police for background checks prior to the individual being able to participate at any function sponsored by the Township of Lower. Thereafter, every three (3) years a new background check shall be submitted to the Chief of Police.
- C. Individuals involved in Township 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 checks 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.

475-25 Privacy

- A. Any and all criminal background checks supplied to the Chief of Police shall be 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.

475-26 Penalties

- A. Failure to comply with this Ordinance may result in the township withholding funding for the non-profit youth-serving organization, prohibiting the use of facilities, or withholding funding for facility maintenance.
- B. Any individual who has been advised, verbally or in writing of his/her disqualification to participate and continues to participate upon conviction thereof in a proceeding before a court of competent jurisdiction be subject to the following fines:
 - 1) A fine of not less than two hundred fifty (\$250.00) dollars nor more than two thousand five hundred (\$2,500.00) dollars;
 - 2) Each continuing violation of this chapter shall constitute a separate offense.

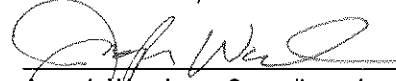
- C. In the event that any portion of this Ordinance is found to be invalid for any reason by any court of competent jurisdiction, such judgment shall be limited in its effect only to that portion of the Ordinance actually adjudged to be invalid, and the remaining portions of this Ordinance shall be deemed severable therefrom and shall not be affected.

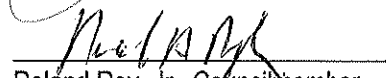
Section 2. All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed to the extent of such conflict or inconsistency.

Section 3. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this Ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provisions of this Ordinance are hereby declared to be severable.

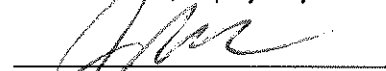
Section 4. This Ordinance shall become effective 20 days after final passage and publication according to law.


Thomas Conrad, Councilmember


Joseph Wareham, Councilmember


Roland Roy, Jr., Councilmember


Kevin Coombs, Deputy Mayor


Frank Sippel, Mayor

First Reading: December 1, 2025

Adopted: January 5, 2026

Attest: 
Karen Fournier, Deputy Township Clerk