

**TOWNSHIP OF MANSFIELD
COUNTY OF BURLINGTON**

ORDINANCE 2023-16

**AN ORDINANCE REPEALING EXISTING CHAPTER 9 OF THE
CODE OF MANSFIELD TOWNSHIP AND REPLACING IT WITH A
NEW CHAPTER 9 “CRIMINAL HISTORY RECORD
BACKGROUND CHECKS AND COACHES SAFETY
ORIENTATION AND TRAINING SKILLS PROGRAM”**

WHEREAS, the Township Committee of the Township of Mansfield declares and finds that the current Township Ordinance governing background checks is in need of revisions and that the Township Code needs to be amended to provide for compliance with state law requiring athletic coaches to complete a safety orientation and training skills program; and

WHEREAS, the Township Committee of the Township of Mansfield declares and finds that this Ordinance is necessary for the public health, safety and welfare of the residents and children of Mansfield Township.

NOW THEREFORE BE IT ORDAINED by the Township Committee of the Township of Mansfield, in the County of Burlington and State of New Jersey, as follows:

SECTION ONE: Chapter 9 of the Code of the Township of Mansfield is repealed and replaced as follows:

Chapter 9. Criminal History Record Background Checks and Coaches Safety Orientation and Training Skills Program.

§ 9-1. Purpose.

A. The purpose of this chapter is to provide for the safety of children and members of the public interacting with Mansfield Township (the “Township”) and engaged in activities sponsored the Township and youth organizations by taking steps to provide for the reasonable assurance that volunteers and non-volunteers for youth organizations working with youth organizations and volunteers and non-volunteers employed by or associated with the Township have been subject to a criminal history record background check and that volunteers and non-volunteers for youth organizations working with youth organizations, have completed the state required Safety Orientation and Training Skills Program.

B. The focus of this chapter is to require volunteers and non-volunteers for youth organizations and non-volunteers employed by or associated with the Township to obtain required mandatory

background checks and, in the case of volunteers and non-volunteers for youth organizations working with youth organizations, to complete the state required Safety Orientation and Training Skills Program. As such, a youth organization and an individual administering a youth organization's compliance with this chapter will not be cited for failing to meet the requirements of this chapter unless the failure was a result of gross negligence or willful misconduct.

§ 9-2. Definitions.

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

CRIMINAL HISTORY RECORD BACKGROUND CHECK (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, the New Jersey State Bureau of Identification in the Division of State Police, and/or a private firm certified in the State of New Jersey to conduct said background checks.

NON-VOLUNTEER

Any adult individual of the age of 18 years or older who is employed by or compensated in any manner by the Township as a Township employee or in association with a youth organization as a trainer. For purposes of this Ordinance, all employees of Mansfield Township, including the Municipal Court, Public Works and Administration shall be considered non-Volunteers subject to a Background Check.

REVIEW COMMITTEE

A committee comprised of the Chief of Police, (or his/her designee), the Township Administrator (or his/her designee) and one Township resident appointed to the Review Committee by Township Council.

TOWNSHIP FACILITY

- A. Any facility owned, leased or used by the Township or under the Township's control, including without limitation, Township offices, meeting rooms, parks, recreation and open space areas; or
- B. Any facility used for youth programs for which the Township pays usage fees.

VOLUNTEER

Any adult individual of the age of 18 years or older who volunteers his or her time and acts as a coach, leader, instructor, trainer or similar position for a youth organization or serves in a Township board, office or position as a volunteer, unless exempted in §9-4F, below. For purposes of this Ordinance, all members of the Recreation Committee, Coaches, Assistants Coaches, Trainers, Special Events Committee and Volunteers, and volunteer members of the Mansfield Ambulance Corp and Franklin Fire Company shall be considered Volunteers subject to a Background Check.

YOUTH ORGANIZATION

Any organized program with participants that are Township residents under the age of 18 that:
(1) Are sponsored by the Township of Mansfield;

- (2) Receive Township assistance for their programs and/or services; or
- (3) Utilize Township facilities, including buildings and/or fields of play, on a regular or recurring basis.

COACHES SAFETY ORIENTATION AND TRAINING SKILLS PROGRAM

The Safety Orientation and Training Skills Program required by New Jersey state law, N.J.A.C. 5:52-1.1et seq. and all regulations promulgated thereunder.

§ 9-3. Submission to background checks required; notifications; appeals; responsibilities of youth organizations; exceptions.

A. Mandatory background check. All volunteers and non-volunteers, unless exempted hereunder, shall be required to submit to a mandatory background check. This requirement shall apply to new volunteers and non-volunteers as well as existing volunteers and non-volunteers, and the requirement may not be waived by the Township, youth organizations or any other entity. Certified teachers who are currently teaching, law enforcement officers, federal agents who are authorized to carry a firearm, military defense contractor employees, or others who already obtain a similar background check may gain exemption by providing a copy of proof of passing their employer-processed background check to the youth organization and the Township Clerk. Determination as to whether the background check information provided is sufficient to meet the standards and intent of this chapter shall be made by the Chief of Police or his/her designee.

B. Process. All volunteers and non-volunteers shall be required to submit to a background check, which shall be conducted by the New Jersey State Police Bureau of Investigation, by a private firm certified in the State of New Jersey, or under the auspices of a national youth sports governing body meeting all criteria in the State of New Jersey to conduct said background checks. The results of the background check will be submitted to the Township and the Youth Organization, and the Township and Youth Organization shall maintain the results as confidential. If the background check reveals that the volunteer or non-volunteer is currently charged with or has been previously convicted of any felony, any lesser crime involving force or threat of force, any lesser crime of a sexual nature or classified as a sex offense, any lesser crime involving controlled substances (not including paraphernalia or alcohol), any lesser crime involving cruelty to animals, and/or sex offender registrant under New Jersey's Megan's Law, and/or any lesser crime involving harm to a minor, including specific offenses as follows: (1) homicide, (2) assault, (3) endangering, threats, (4) kidnapping, (5) sexual offenses, (6) robbery, (7) theft, (8) offenses against the family, children and incompetents, or (9) possession, use, and/or distribution of a controlled dangerous substance as set forth in Chapter 35 of Title 2C of the New Jersey Statutes, except Paragraph (4) of Subsection a of N.J.S.A. 2C:35-10, or such act that the Review Committee determines are grounds for disqualification, then the volunteer or non-volunteer shall be deemed to have failed the background check and shall not be permitted to be a volunteer or non-volunteer in any way for the Township or a Youth Organization.

C. Notification of failed background check. If an individual desiring to be a volunteer for or a non-volunteer associated with the Township or a Youth Organization fails the background check, the individual shall be notified of the failure in writing via certified and regular mail by the Township or Youth Organization. The individual shall further be advised in writing of his or her

right to an appeal hearing before the established Review Committee, which hearing must be requested within 20 days of the receipt of the notice.

D. Appeal hearing. If an appeal hearing is requested by the individual pursuant to this section, at the hearing, the Review 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 he or she should still be permitted to be a volunteer or non-volunteer. The Review Committee shall thereafter render a decision on the individual's appeal by majority vote and may either permit the individual to be a volunteer or non-volunteer or reject the individual's appeal. The appeal may be granted or denied in the sole discretion of the Review Committee. The hearing may be conducted in executive session pursuant to the provisions of the Open Public Meetings Act.

(1) The factors to be considered by the Review Committee when considering and deciding an appeal include, but are not limited to:

- (a) Whether the results of the background check were accurate;
- (b) The nature and responsibility of the position for which the individual would hold or has held;
- (c) The nature and seriousness of the crime or offense;
- (d) The circumstances under which the crime or offense occurred;
- (e) The date of the crime or offense;
- (f) The age of the individual when the crime or offense was committed;
- (g) Whether the crime or offense was an isolated or repeated incident;
- (h) Any social conditions which may have contributed to the crime or offense;
- (i) Any evidence of rehabilitation, including good conduct in the community, counseling or psychiatric treatment received, and the acquisition of additional academic or vocational education and prior participation in youth organizations; and
- (j) The recommendation of those who have had experience with the individual.

(2) Within 10 days after the hearing, the Review Committee's decision shall be reduced to writing by the Review Committee and mailed by certified and regular mail to the individual.

E. Youth organization obligations.

(1) The youth organization, through a designated officer or leader, shall use its best efforts to compile an annual roster of volunteers and non-volunteers who are required to participate in the background check procedures of this chapter. The youth organization shall sign the roster certifying to the best of the knowledge of the certifying officer or leader of the youth organization the accuracy and completeness of the roster and volunteers' and non-volunteers' names. The youth organization shall maintain records including the names of all known volunteers and non-volunteers and the date of their last background check. These records shall be disclosed upon request to the Township Administrator or his/her designee to help ensure that all volunteers and non-volunteers are currently compliant with regard to the background check requirements.

(2) Identification cards shall be issued to all volunteers and non-volunteers who have submitted to and passed a background check, and the identification cards must be in the possession of the volunteer or non-volunteer whenever he or she is participating in any Township event or youth organization activities. If an identification card is issued to a volunteer or non-volunteer who is allowed to participate under the interim status provision of §9:4C and that volunteer or non-volunteer later is deemed to have failed the background check, the youth organization shall

immediately revoke and make reasonable efforts to confiscate the volunteer or non-volunteer's identification card.

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

F. Exceptions. In order to avoid excessive administrative time and expense associated with irregular or de minimis use of Township fields or facilities by a youth organization, a volunteer or non-volunteer who uses Township fields or facilities two times or less per calendar year does not need to undergo the background checks process set forth in this chapter. In addition, because the positions involve little or no contact with the public outside of the municipal offices, volunteer members of the Joint Land Use Board, Environmental Commission and Historical Society are exempt from the background check requirements herein.

§ 9-4. Safety Orientation and Training Skills Program; written consent; interim status.

A. Safety Orientation and Training Skills Program. All individuals seeking to volunteer for or serve as a non-volunteer athletic coach, manager or official for youth organizations shall be required to complete the “Rutgers University Safety Clinic” course and provide proof of completion to the youth organization.

B. Written consent. Each person seeking to participate in a youth organization as a volunteer or non-volunteer, or as an athletic coach, manager or official, shall execute a written consent in favor of both the youth organization and the Township of Mansfield, and their respective agents, servants and employees, authorizing said investigation, releasing the youth organization and the Township, and their respective agents, servants and employees, from any liability arising from same, and holding them harmless, on forms to be provided by the Township. Failure to submit to a background check investigation or completion of the required Safety Orientation and Training Skills Program as required by this Ordinance will disqualify any such person from serving in the youth organization.

C. Interim status. When a person has submitted written consent, he or she shall have interim status to act as a coach, leader, instructor, trainer or the like for a youth organization while awaiting the results of the background check, provided that the person certifies that he or she has no reason to believe that he or she was found guilty of a crime that would result in his or her disqualification from service as a volunteer or non-volunteer under the terms of this chapter. Interim status shall be sufficient to act as a coach, leader, instructor, trainer or the like for a youth organization only until such time that the results of the background check are obtained.

§ 9-5. Frequency of background checks.

A background check administered under the provisions of this chapter shall be valid for no more than three years. At the expiration of three years, the volunteer must undergo a name check, but will not need to submit to subsequent fingerprinting in order to continue to serve as a volunteer.

§ 9-6. 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 Mansfield 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 chapter.

B. Limitation on use. The Township, the Review Committee 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. 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 of background checks shall not be subject to public disclosure and shall be retained only for a period of three years.

C. Authorized Users: Township officials with access to the criminal history record information shall be limited to the following: Solicitor, Clerk, Deputy Clerk, the Review Committee and any other official specifically authorized by the Township Administrator, provided he or she is a confidential employee and the Township Administrator determines his or her involvement is necessary or useful in carrying out the terms and intentions of this chapter.

§ 9-7. Cost, Township Reimbursement.

The individual shall not be charged a fee for the cost of the background check, or the cost of the Safety Orientation and Training Skills Program required by this Ordinance. The Township will pay for or reimburse the individual for any cost of the background check or safety course.

§ 9-8. 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 chapter shall, upon conviction thereof, be punishable as provided under state law N.J.S.A. 40:49-5 "Penalties for Violations of Municipal Ordinances.

SECTION TWO: *REPEALER, SEVERABILITY AND EFFECTIVE DATE*

- A. Any and all Ordinances and provisions thereof inconsistent with the provisions of this Ordinance shall be and are hereby repealed to the extent of such inconsistency.
- B. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision and the remainder of this ordinance shall be deemed valid and effective.
- C. This Ordinance shall take effect immediately upon final passage and publication according to law.