

ORDINANCE # 14-2014

**AN ORDINANCE TO REQUIRE CRIMINAL HISTORY BACKGROUND CHECKS
FOR VOLUNTEERS OF NON-PROFIT YOUTH SERVICING ORGANIZATIONS
AND/OR VOLUNTEERS INVOLVED WITH BOROUGH SPONSORED PROGRAMS
INVOLVING MINORS**

BE IT ORDAINED, by the Mayor and Council of the Borough of Clayton, County of Gloucester and State of New Jersey that criminal history background checks for volunteers of non-profit youth servicing organizations and/or volunteers involved with Borough sponsored programs involving minors be created as follows:

Section 1. Establishment.

This chapter shall be titled "Criminal History Background Checks for Volunteers of Nonprofit Youth Servicing Organizations and/or Volunteers involved with Borough Sponsored Programs involving minors.

Section 2. Definitions.

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

BOROUGH SPONSORED PROGRAMS

Any programs sponsored by the Borough which provide and utilize Borough facilities and/or Borough property.

CRIMINAL HISTORY RECORD BACKGROUND CHECK

A determination of whether a person has a criminal record by cross-referencing that person's name and/or fingerprints with those on file with the Federal Bureau of Investigation, identification Division, and/or the State Bureau of Identification of the New Jersey State Police.

CRIMINAL HISTORY RECORD INFORMATION or CHRI

Information collected by criminal justice agencies concerning persons and stored in the computerized databases of the New Jersey State Police

SBI Criminal History Information System, the National Law Enforcement Telecommunication System 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 therefrom, including convictions, dismissals, correctional supervision and release.

DEPARTMENT

The Borough of Clayton Police Department.

NON-CRIMINAL-JUSTICE PURPOSE

Any purpose, other than administration for a criminal justice purpose, including for which applicant fingerprints or name search requests are submitted by authorized requestors, as required or permitted by a federal or state statute, rule or regulation executive order, administrative code provision, local ordinance, resolution or by this chapter, to the State Bureau of Identification for the dissemination of criminal history record information.

NONPROFIT YOUTH-SERVING ORGANIZATION or ORGANIZATION

A corporation, association or other organization established pursuant to Title 14 of the Revised Statutes, Title 15A of the New Jersey Statutes, or other law of this state, but excluding public and nonpublic schools, and which provides recreational, cultural, charitable, social or other activities or services for persons younger than 18 years of age and is exempt from federal income taxes.

STATE BUREAU OF IDENTIFICATION or SBI

The New Jersey State Bureau of Identification created by P.L. 1930, C 65 (N.J.S.A. 52:1-12 et seq.) as a bureau within the Division of State Police.

Section 3. Background check required; process.

- A. The Borough requires that all volunteers of a nonprofit young-serving organization request through the Department that the State Bureau of Identification in the Division of State Police conduct a criminal history record background check on each prospective and current volunteer of the organization.
- B. The Division of State Police shall inform the Department whether the person's criminal history record background check reveals a conviction of a disqualifying crime or offense set forth in Section 3 of this chapter.
- C. The Borough shall conduct a criminal history record background check only upon receipt of the written consent to the check from the prospective or current volunteer.
- D. The non-profit youth servicing organization shall bear the costs associated with conducting the criminal history record background checks.

Section 4. Conditions disqualifying persons from service; interpretation of information

- A. A person may be disqualified from serving as a volunteer of a nonprofit youth-serving organization if that person's criminal history record background check reveals a conviction of any of the following crime or offenses.
 - (1) In New Jersey, any crime or disordering 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:14-1 et seq.

- (c) Involving theft, as set forth in N.J.S.A. 2C:20-1 et seq.
 - (d) Involving any controlled dangerous substance or controlled substance analog, as set forth in N.J.S.A. 2C:35-1 et seq., except Paragraph (4) of Subsection of N.J.S.A. 2C:35-10.
- (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(1) of this section.
- B. For purposes of interpreting the information recorded in a criminal history record to determine the qualifications of the volunteer of a nonprofit youth-serving organization and/or the volunteer involved with the Borough sponsored programs involving minors, the Borough shall presume that the volunteer is innocent of any charges or arrest for which there are no final dispositions on the record.
- C. The determination of whether the information contained in the criminal history record is sufficient to disqualify a volunteer shall be made by the Borough Administrator of the Borough of Clayton. Any volunteer dissatisfied with the determination by the Borough Administrator shall be entitled to file an appeal with the Criminal Background Check Appeal Panel created pursuant to this Ordinance

Section 5. Submissions; exchange of background check information

- A. Prospective or current volunteers of nonprofit youth-serving organization and/or volunteers of Borough sponsored programs involving minors shall submit their name, address, fingerprints and written consent to the organization for the criminal history record background check to be performed. The organization shall submit this documentation to the Police Chief of the Borough of Clayton or his designee, who shall coordinate the background check.

- B. The Department shall act as a clearinghouse for the collection and dissemination of information obtained as a result of conducting criminal history record background checks pursuant to this chapter.
- C. The Borough may, in its discretion, engage the services of a third-party independent agency to conduct the criminal history record background checks pursuant to this chapter.
- D. The Borough may, in its discretion, engage the services of a third-party independent agency to conduct the criminal history record background checks authorized under this chapter.

Section 6. Limitations on access and use of criminal history record background checks.

- A. Access to criminal history record information for non-criminal justice purposes, including licensing and volunteers, is restricted to authorized personnel of the nonprofit youth serving organization and/or the Borough sponsored program involving minors on a need-to-know basis, as authorized by federal or state statute, rule or regulations, executive order, administrative code, local ordinance or resolution regarding obtaining and dissemination of criminal history record information obtained under this chapter.
- B. Such persons or 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 entities unauthorized to receive the records for authorized purposes. 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. This 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.

Section 7. Challenging accuracy of information; correction of record.

If this criminal history record may disqualify a volunteer for any purpose, the person making the determination shall provide the disqualified person with an opportunity to complete and challenge the accuracy of the information contained in the criminal history record. The disqualified person 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 no final dispositions indicated in the record.

Section 8. Appeal process; Appeal Panel.

- A. Criminal background check appeal process. If the Borough Administrator disqualifies a volunteer or denies the challenge concerning the accuracy of a criminal history record, the volunteer may appeal that determination by filing a written notice of appeal with the Clerk of the Borough of Clayton no later than 20 days after receiving the determination from the Borough Administrator. Any appeal requested shall proceed before the Criminal Background Check Appeal Panel.
- B. Criminal Background Check Appeal Panel. In order to monitor and supervise the enforcement of this chapter by the Borough Administrator, the Borough of Clayton hereby creates a Criminal Background Check Appeal Panel, which shall consist of three members.
 - (1) The composition of the Criminal Background Check Appeal Panel shall be as follows:
 - (a) One member of the Criminal Background Check Appeal Panel shall be the Police Chief of the Borough of Clayton.
 - (b) Two members of the Criminal Background Check Appeal Panel shall be selected by the Mayor of the Borough of Clayton.
 - (2) The terms of the members of the Criminal Background Check Appeal Panel shall be for three years, with each member serving without compensation.

C. Powers. The Criminal Background Check Appeal Panel is granted and shall have and exercise, in addition to other powers herein granted, all the powers, necessary and appropriate to carry out and execute the purposes of this chapter, including but not limited to the following:

(1) To hold hearings and adjudicate appeals by volunteers dissatisfied with the determination of the Borough Administrator concerning the disqualification of the volunteer.

(2) To hold hearings and adjudicate appeals by volunteers dissatisfied with the determination of the Borough Administrator concerning the accuracy of the criminal history record.

Section 9. Repealer.

All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistencies.

Section 10. Severability.

Each section of this Ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective, shall not be deemed to affect the validity or constitutionality of any other sections or parts hereof.

Section 11. Effective Date

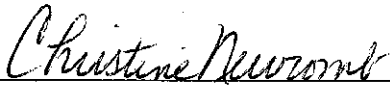
BE IT FURTHER ORDAINED that this Ordinance shall take effect immediately upon formal approval by the Clayton Borough Council and publication as required by law.

BOROUGH OF CLAYTON



THOMAS BIANCO, Mayor

ATTEST:



CHRISTINE NEWCOMB, Municipal Clerk

ORDINANCE 14-2014

NOTICE OF INTRODUCTION

**AN ORDINANCE TO REQUIRE CRIMINAL HISTORY BACKGROUND
CHECKS FOR VOLUNTEERS OF NON-PROFIT YOUTH SERVICING
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SPONSORED PROGRAMS INVOLVING MINORS**

TAKE NOTE that the foregoing ordinance was introduced at a meeting of the Mayor and Council of the Borough of Clayton held on September 11, 2014 and was then read for the first time. The said ordinance will be further considered for final passage by the Mayor and Council at the Municipal Building, 125 N. Delsea Drive, Clayton, New Jersey, at a meeting beginning 7:30 p.m. on October 9, 2014, at which time and place, or any time and place to which such meeting be adjourned, all persons interested will be given an opportunity to be heard concerning such ordinance.

BY ORDER of the Mayor and Council of the Borough of Clayton.

Christine Newcomb
Borough Clerk

14-2014

NOTICE OF ADOPTION

**AN ORDINANCE TO REQUIRE CRIMINAL HISTORY BACKGROUND
CHECKS FOR VOLUNTEERS OF NON-PROFIT YOUTH SERVICING
ORGANIZATIONS AND/OR VOLUNTEERS INVOLVED WITH BOROUGH
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The foregoing Ordinance was finally adopted by the Mayor and Council of the Borough of Clayton on October 9, 2014.

Christine Newcomb
Borough Clerk