

1666th REGULAR MEETING MARCH 14, 2006

ORDINANCE NO. 2006-2

AN ORDINANCE TO AMEND THE WOOD-RIDGE CODE SPECIFICALLY THOSE SECTIONS SET FORTH IN CHAPTERS 68 BY THE ADDITION THERETO AUTHORIZING CRIMINAL HISTORY BACKGROUND CHECKS OF ANY PERSON WITH UNSUPERVISED DIRECT ACCESS TO MINORS PARTICIPAING IN ANY BOROUGH SPONSORED OR CO-SPONSORED PROGRAM IN CONNECTION WITH THE WOOD-RIDGE RECREATION COMMISSION.

WHEREAS, the Mayor and Council of the Borough of Wood-Ridge wish to ensure that the Borough is providing the safest possible recreational programs for its youth; and

WHEREAS, recently enacted State Law, N.J.S.A. ^{15A}~~175A~~:3A-1, et seq., permits the Borough to request that the Attorney General's Office conduct a criminal history record background check on each prospective and current person with unsupervised direct access to minors participating in any Borough sponsored or co-sponsored program in connection with the Wood-Ridge Recreation Commission; and

WHEREAS, the Wood-Ridge Recreation Commission recommends that all such current and prospective persons with unsupervised direct access to minors involved with such youth programs be required to submit to such criminal history record background checks; and

WHEREAS, the Borough desires that all youth recreation programs using Borough facilities and/or which are funded by the Borough in whole or in part, such as Youth Football, Youth Basketball, Soccer, and the like, be required to perform criminal background checks on any person with unsupervised direct access to minors, as a condition of using the Borough facilities.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Wood-Ridge, County of Bergen, State of New Jersey, as follows:

SECTION 1. The Code of the Borough of Wood-Ridge be and the same is hereby amended and supplemented as follows:

- A. Criminal history background checks of person with unsupervised direct access to minors of youth serving recreation organization.
- B. Definitions relative to criminal history background ordinance:
 - i. "Sponsored" shall mean recreation run directly by the Wood-Ridge Recreation Commission, including oversight and control.
 - ii. "Criminal history record background check" means 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.

- iii. "Department" means the Borough of Wood-Ridge Police Department.
- iv. "Youth serving recreation organization" or "organization" including means a corporation, association or other organization, including those with nonprofit status and which provides recreational related activities or services for persons younger than eighteen (18) years of age, in connection with Wood-Ridge sponsored sports programs.
- v. "Volunteer" shall mean any person involved with a Wood-Ridge sponsored sports program who has regular unsupervised direct access to minors as a result of their involvement with the organization.
- vi. "Supervised" shall mean to have the direction and oversight of the performance of others.
- vii. "Unsupervised" shall mean not supervised or under constant observation.
- viii. "Review Authority" or "Authority" shall mean the Chief of Police who shall be charged with the review of all appeals by any volunteer whose criminal history background check reveals a disqualifying criminal conviction.

C. Requests for criminal background checks; costs.

- i. The Borough requires that all volunteers of a youth serving recreation organization request through the Wood-Ridge Police 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. There shall be a sixty (60) day grace period for each new volunteer of the youth serving organization to make application for this criminal history record background check. All coaches must have their fingerprinting and applications completed by the end of the sixty (60) day grace period.
- ii. The Borough shall conduct a criminal history record background check only upon receipt of the written consent for the check from the prospective or current person with direct unsupervised access to minors.
- iii. The municipality shall bear the costs associated with conducting a criminal history background check in accordance with the fees established by the State Bureau of Identification in the Division of State Police and in accordance with N.J.S.A. 15A:3A-2(d).

- iv. The division of State Police shall inform the Wood-Ridge Police Department whether the person's criminal history record background check reveals a conviction of a disqualifying crime or offense specified in this ordinance. Any information received by the Wood-Ridge Police Department shall be confidential.
- v. Any person who, by virtue of their occupation, is required by statute to undergo a Federal and State criminal history record background check similar in nature to the requirements contained herein, and who can provide proof of the results of such background check, is exempt from the requirement hereunder until three (3) years has elapsed since the most current background check.

D. Conditions under which a person is disqualified from service.

- i. A person may be disqualified from serving as a volunteer of a youth serving recreation organization if that person's criminal history record background check reveals a record of conviction of any of the following crimes and offenses:

- a. In New Jersey, any crime or disorderly persons offense as follows:

2C:11 Homicide – All offenses

2C:12 Aggravated Assault; Endangering; Threats – All offenses

2C:13 Kidnapping – All offenses

2C:14 Sexual Offenses – All offenses

2C:15 Robbery – All offenses

2C:24 Offenses Against the Family, Children and Incompetents – All offenses

2C:35 Controlled Dangerous Substances – All offenses except paragraph (4) of subsection a. of N.J.S.2C:35-10.

- b. 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 this section

E. Submission, exchange of background information.

- i. Prospective or current volunteers of youth serving recreation organizations shall submit their names, 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 Department through the Chief of Police who shall coordinate the background check and refer the information to the State Police and FBI for the initial check. Thereafter, all subsequent background checks shall be submitted to the Police, who shall coordinate a background check every three (3) years after the date of the initial check.
- ii. The Review Authority shall limit his use of criminal history record information

solely to the authorized person 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. 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. Any person violating Federal or State Regulations governing access to criminal history record information may be subject to criminal and/or civil penalties.

F. Challenge of accuracy of report.

- i. If a criminal history record may disqualify a volunteer for any purpose, the Review Authority determination shall be provided to the volunteer with an opportunity to complete and challenge the accuracy of the information contained in the criminal history record. The volunteer 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 on the record. The New Jersey State Police shall make the initial recommendation based solely on the New Jersey State Statutes, to the Police Department who shall provide the information to the Review Authority. They shall advise the Review Authority whether or not the volunteer is being recommended. The Review Authority will receive a pre-printed form on each individual submitted to the State Police for a background check. One form will be for recommendation and the other will be for rejection. If there is a rejection, the Review Authority may still allow the volunteer to participate. The New Jersey State Police will make a recommendation based on the record only. It is within the Review Authority's discretion to overturn the decision of New Jersey State Police recommendation.
- ii. The Review Authority shall promptly notify a prospective or current volunteer whose criminal history background check reveals a disqualifying conviction. The person shall have thirty (30) days from the receipt of that notice to petition an Appeals Committee consisting of the Chief of Police, Borough Administrator and Borough Attorney for a review and cite reasons substantiating the review.
- iii. Notwithstanding the provision of section D of this Ordinance, no person shall be disqualified from serving as a volunteer for a non-profit youth serving organization on the basis of any conviction disclosed by a criminal history record background check if the person can affirmatively demonstrate rehabilitation to the Review Authority. In determining whether a person has affirmatively demonstrated rehabilitation, the Appeal Committee shall consider the following factors.
 - a. The nature and responsibility of the position which the convicted person would hold or has held, as the case may be;
 - b. The nature and seriousness of the offense;

- c. The circumstances under which the offense occurred;
 - d. The date of the offense;
 - e. The age of the person when the offense was committed;
 - f. Whether the offense was an isolated or repeated incident;
 - g. Any social conditions which may have contributed to the offense; and
 - h. Any evidence of rehabilitation, including good conduct in prison or the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the person under their supervision.
- iv. If by majority the Appeals Committee reverses the determination of the Review Authority then and in that event the Appeals Committee shall promptly advise the organization, in writing, if a current or prospective volunteer whose criminal history record background check reveals a disqualifying offense has affirmatively demonstrated rehabilitation under this section.
- v. This section shall not apply to persons who have been convicted, adjudicated delinquent or acquitted by reason of insanity of aggravated sexual assault; sexual assault; aggravated criminal sexual contact; kidnapping pursuant to paragraph (2) of subsection c. of N.J.S.A. 2C:13-1; endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child pursuant to subsection a. of N.J.S.A. 2C:24-4; endangering the welfare of a child pursuant to paragraph (4) of subsection b. of N.J.S.A. 2C:24-4; luring or enticing pursuant to section 1 of P.L. 1993, c.291 (N.J.S.A. 2C:13-6); criminal sexual contact pursuant to N.J.S.A. 2C:14-3b, if the victim is a minor, kidnapping pursuant to N.J.S.A. 2C:13-2, or false imprisonment pursuant to N.J.S.A. 2C:13-3 if the victim is a minor and the offender is not the parent of the victim; knowingly promoting prostitution of a child pursuant to paragraph (3) or paragraph (4) of subsection b. of N.J.S.A. 2C:35-1; or an attempt to commit any of these enumerated offenses.
- vi. When the Review Authority received written notification from the Police Department stating whether the criminal history record background check of a current or prospective volunteer performed pursuant to the provision of N.J.S.A. 15A:3A-4 reveals a disqualifying offense or stating that the person has affirmatively demonstrated rehabilitation under this act, the organization or Review Authority may file that written notification with the Police Department.
- vii. The Police Department shall keep the written notification on file for three (3) years from the date it was issued.

- viii. The Review Authority may request the Police Department to review its files to determine if there is written notification on file stating whether a criminal history record background check of a current or prospective volunteer revealed a disqualifying offense or stating that the person has affirmatively demonstrated rehabilitation under this act. A current or prospective volunteer shall not be required to submit to another criminal history record background check if such written notification was issued within the past three years.
- ix. No person or entity shall be held liable in any civil or criminal action brought by any party based on any written notification on file with the Police Department pursuant to the provisions of this Ordinance.

H. Penalty

Failure to comply with this Ordinance may result in the Borough withholding funding for the program, prohibiting the use of facilities, and/or prohibiting the use of facility maintenance.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. All ordinances of the Borough of Wood-Ridge to the extent that same are not inconsistent with this Ordinance and/or the Borough Form of Government Law shall remain in full force and effect until modified or repealed pursuant to law. All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed as to such inconsistencies.

SECTION 4. If any section, subsection, paragraph, sentence, clause or word of this Ordinance shall be adjudged invalid by a Court of competent jurisdiction, then and in such event, said invalidity shall not effect the viability of the remaining portions of this Ordinance.

SECTION 5. This Ordinance shall become effective immediately upon adoption and publication according to law.

APPROVED:

ATTEST:

PAUL A. SARLO
Mayor

DIANE THORNLEY
Borough Clerk

Introduction:	March 14, 2006	
Publication:	Indep. March 22, 2006	News Leader March 23, 2006
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