

BOROUGH OF FRANKLIN

ORDINANCE NO. 4 - 2010

**ORDINANCE OF THE BOROUGH OF FRANKLIN,
COUNTY OF SUSSEX AND STATE OF NEW JERSEY
SUPPLEMENTING AND AMENDING CHAPTER 196,
ATTACHMENT 1 ENTITLED "RECREATION AREA
RULES AND REGULATIONS" AND CHAPTER 106
ENTITLED "CRIMINAL BACKGROUND CHECKS" OF
THE CODE OF THE BOROUGH OF FRANKLIN**

BE IT ORDAINED by the Mayor and Council of the Borough of Franklin, County of Sussex, and State of New Jersey, as follows:

Section I

Chapter 196 Attachment 1, entitled "Recreation Area Rules and Regulations" of the Code of the Borough of Franklin shall be supplemented by adding the following subsections:

- X. (1) (g) In the case of a youth program, an affidavit certifying that all persons in a position supervising children have had a background check as required by Section X(9) *Background Check Affidavit*.
- X. (4) (j) That the applicant is in compliance with the Background Check Affidavit requirement of Section X(9) *Background Check Affidavit*, if the proposed use is a youth program.

Section II

Chapter 196 Attachment 1, entitled "Recreation Area Rules and Regulations" of the Code of the Borough of Franklin shall be amended by deleting Section X(5) in its entirety and replacing it as follows:

- X. (5) Appeal of recreation permits.
 - (a) Within 45 days after the receipt of an application for recreation permit, the Recreation Commission shall apprise an applicant in writing of its determination to grant or deny a permit. In the event of a denial, the notification shall include the reasons for the denial.
 - (b) Any aggrieved person shall have the right to appeal to the Borough governing body a decision under this section of the Commission or its designee by serving written notice thereof on the Borough Clerk within 5 working days of said refusal.

- (c) A copy of said notice shall also be served on the Commission within the same time, and said Commission shall immediately forward the application and the reasons for its refusal to the Borough governing body, which shall consider the application and sustain or overrule the Recreation Commission's decision within 30 days from the receipt of the appeal by the Borough Clerk. The decision of the governing body shall be final.

Section III

Chapter 196 Attachment 1, entitled "Recreation Area Rules and Regulations" of the Code of the Borough of Franklin shall be amended by inserting the following subsection and renumbering the existing subsections as follows:

X. (9) Background Check Affidavit.

- (a) Effective June 1, 2010 prior to any club or organization, other than Borough-sponsored youth programs, receiving any type of permit to use Borough-owned property or facilities for youth programs, the club or organization must complete an affidavit on a form approved by the Borough Administrator and the Recreation Commission certifying that all official coaches, assistant coaches and adults who are in positions of authority or control of youth participants under the age of 18 have completed and passed a background check within the last four years, meaning that the individual has not been convicted of any of the disqualifying offenses set forth in N.J.S.A. 15A:3A-3. The affidavit shall also state that the affiant is not aware of any relevant convictions subsequent to the background check.
- (b) In the event that a club or organization cannot comply with this subsection because background checks have been submitted to the State Police but results have not been received, a conditional permit may be issued for up to 60 days.

Section X(9) shall be renumbered as Section X(10).

Section X(10) shall be renumbered as Section X(11)

Section X(11) shall be renumbered as Section X(12)

Section IV

The Code of the Borough of Franklin is hereby amended by deleting Chapter 106 entitled "Criminal Background Checks" in its entirety and replacing it as follows:

CHAPTER 106 CRIMINAL BACKGROUND CHECKS

§ 106-1 Borough Sponsored Youth Programs

- A. All adults, those persons 18 years of age or older, including but not limited to coaches, assistant coaches, or similar positions involved in educating, directing or supervising youth in a Borough-sponsored youth program shall have a criminal history background check as set forth in N.J.S.A. 15A:3A-2 et seq.
- B. Individuals that are required to have criminal background checks conducted pursuant to this Chapter shall bear any and all costs involved in conducting said background checks.
- C. Refusal by individuals required to submit to background checks will result in a dismissal of the individual from any Borough-sponsored youth programs requiring background checks.

§ 106-2 Disqualification.

- A. A person shall not be qualified to participate in any Borough-sponsored youth programs in the event a criminal background check reveals any prior convictions for crimes or offenses set forth in N.J.S.A. 15A:3A-3 or which negatively impact the health, safety and welfare of children including the following:
 - (1) Providing alcoholic beverages or controlled dangerous substances to minors.
 - (2) Sexual offenses, including but not limited to child pornography, pursuant to N.J.S.A. 2C:24-1 et seq.
 - (3) Employing a child to commit a crime, pursuant to N.J.S.A. 2C:24-9.
 - (4) Endangering the welfare of a child, pursuant to N.J.S.A. 2C:24-4.
 - (5) Selling firearms or other weapons to minors, pursuant to N.J.S.A. 2C:39-9.1 et seq.
 - (6) Luring a child pursuant to N.J.S.A. 2C:13-6.
 - (7) Lewdness and obscenity towards children, pursuant to N.J.S.A. 2C:24-4, as well as lewdness, pursuant to N.J.S.A. 2C:14-4.
- B. 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 constitute grounds to disqualify a person from participating in Borough-sponsored youth programs.

- C. Disorderly persons' convictions that occurred more than 10 years prior to the date of the criminal background search shall not serve to disqualify the individual involved, provided there has been no subsequent convictions and provided that the original violations did not involve children or minors.

§ 106-3 Borough Personnel Committee to determine eligibility.

Upon receipt of a completed background check, the Personnel Committee of the Governing Body shall determine whether or not an individual's prior criminal history shall prevent him or her from participating in Borough-sponsored youth programs. In making such determination, the Personnel Committee shall consider whether there has been a prior conviction for crimes or offenses set forth in N.J.S.A. 15A:3A-3 and this Ordinance.

§ 106-4 Right of appeal.

In the event the Borough Personnel Committee determines that an individual is disqualified from participating in Borough-sponsored youth programs as a result of a crime or violation, the individual shall be notified by the Borough Clerk, and the individual shall have the right to request a hearing before the full Borough Council. At the time of the hearing, the individual shall be prepared to present any witnesses or evidence in support of his or her claim that the violation does not negatively impact his or her ability to participate in Borough-sponsored youth programs. The Council shall hear the evidence and testimony as presented by the individual and shall have the opportunity to cross-examine or call witnesses of its own. Upon the conclusion of any hearings, the Borough shall render its written decision within 30 days. The Borough Council's decision shall be final with no right of appeal.

§ 106-5 Frequency of background checks.

Background checks are renewed no less than once every four years.

§ 106-6 Privacy.

Any and all criminal background checks shall be filed and maintained in a secure and locked cabinet or room and shall not be available to the public. The records shall only be retained for such period as is necessary to serve their intended and authorized purpose and in conformance with State of New Jersey Division Retention Schedule.

Section VI

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

Section VII

If any article, section, subsection, paragraph, phrase or sentence is, for any reason, held to

be unconstitutional or invalid, said article, section, subsection, paragraph, phrase or sentence shall be deemed severable.

Section VIII

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

ATTEST:

Patricia A. Leasure, Borough Clerk

Paul B. Crowley, Mayor

NOTICE

TAKE NOTICE that the above entitled ordinance was introduced at a regular meeting of the Borough Council of the Borough of Franklin on April 27, 2010 and will be considered for final passage after public hearing at a regular meeting of the Borough Council of the Borough of Franklin to be held on May 11, 2010 at 7:00 p.m. in the Municipal Building, 46 Main Street, Franklin, New Jersey.

Patricia A. Leasure, Borough Clerk