

**CITY OF ABSECON**

**ORDINANCE 05-2014**

**AN ORDINANCE OF THE CITY OF ABSECON AUTHORIZING CRIMINAL HISTORY RECORD BACKGROUND CHECKS FOR EMPLOYEES AND VOLUNTEERS INVOLVED WITH CITY PROGRAMS OR SERVICES THAT CAN/WILL HAVE CONTACT WITH MINORS**

**WHEREAS**, the City Council of the City of Absecon is aware that numerous programs and services are offered through and with the support of the City Governments to the minor residents of the City; and

**WHEREAS**, the City Council of the City of Absecon wishes to ensure that the City of Absecon is providing the safest possible recreational and other programs for the minors involved; and

**WHEREAS**, an enacted law of the State of New Jersey, N.J.S.A. 15A:3A-1 et seq. permits the City to request that the New Jersey State Police conduct a criminal history record background check on each prospective and current employee or volunteer participating in any City endorsed or sponsored programs which will provide recreational, cultural charitable, social or other activities for persons younger than 18 years of age; and

**WHEREAS**, the City of Absecon requires that all such current and prospective employees and volunteers involved with youth programs or services be required to submit to such criminal history background checks at a cost to be borne by the volunteer and/or the volunteer organization at the current program fee established by the New Jersey State Police's Volunteer Review Operation Program paid directly to the contacted vendor at time of scheduling; and

**WHEREAS**, City employees participating in such a program for minors as a part of the employee's employment duties shall be reimbursed by the City for the cost of the criminal history background check from a fund established by the City; and

**WHEREAS**, the City Council of the City of Absecon requires that all youth programs or services sponsored or supported by the City be required to have criminal history record background checks performed on their employees and volunteers, as a condition of City sponsorship or support; and

**WHEREAS**, such employees and volunteers shall include, but not limited to, those that shall be on, or in close proximity to the field of play located at any City property whether it be for training, score keeping or in any other capacity. Those individuals shall be required to complete the fingerprinting and background check process; and

**WHEREAS**, identification cards will be issued to volunteers and employees who have successfully completed the criminal history record background check. These cards must be worn and visible at all times when on the field of play no exceptions.

**NOW, THEREFORE, BE IT ORDAINED**, by the City Council of the City of Absecon, County of Atlantic, State of New Jersey, as follows:

## SECTION 1. DEFINITIONS

As used in this Ordinance:

- A. “Criminal History record background check” means 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 (SBI) Division and the State Bureau of Identification in the New Jersey State Police.
- B. “Criminal history record information” or “CHRI” means 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 there from, including convictions, dismissals, correctional supervision and release.
- C. “City Administrator” means the City of Absecon City Administrator and his/her designee.
- D. “Employee” means an individual sixteen (16) years of age or older who receives compensation from the City or a youth program to perform services for a youth program and has the potential for unsupervised direct access to youth.
- E. “Notification” means 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.
- F. “Qualified Participant” means an employee or volunteer who has completed a criminal history background check revealing no disqualifying information.
- G. “Sponsored Program” means any youth program which receives benefits, either directly or indirectly, including but not limited to the provision of funding or equipment from the City.
- H. “Supported Programs” means any program which, while not directly sponsored by the City with funding, the providing of equipment or other benefit, uses City facilities, including but not limited to sports fields and City buildings. Supported programs include both teams all of whose participants are residents of Absecon as well a 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 City facilities.
- I. “Unsupervised Direct Access to Minors” means 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.

- J. "Volunteer" means 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.
- K. "Volunteer Review Operation" or "VRO" means 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.
- L. "Youth" means any individual under eighteen (18) years of age.
- M. "Youth Programs" means 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.

**SECTION 2. CRIMINAL BACKGROUND CHECK COSTS.** The cost of the background checks are to be borne by the volunteer or employee or by the youth organization unless otherwise agreed upon. The cost is the current program fee. City employees who require such a criminal background check as part of the employee's employment duties shall be reimbursed by the City for the cost of the background check from a fund established by the City. Only a qualified participant may serve as an employee or volunteer of a City sponsored or City supported youth program or service.

**SECTION 3. DISQUALIFICATION.** A person shall be disqualified from serving as an employee or volunteer of a youth program or service if that person's criminal history record background check reveals a record or conviction of any of the following crimes or offenses:

A. 2C:11 HOMICIDE

- All Offenses

2C:12 ASSAULT; ENDANGERING; THREATS

- All Offenses

2C:13 KIDNAPPING

- All Offenses

2C:14 SEXUAL OFFENSES

- All Offenses

2C:15 ROBBERY

- All Offenses

2C:20 THEFT

- All Offenses

2C:24 OFFENSES AGAINST THE FAMILY, CHILDREN AND INCOMPETANTS

- All Offenses

2C:35 CONTROLLED DANGEROUS SUBSTANCES

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

B. Conduct in any other state or jurisdiction which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in subsection A of this section.

C. Nothing herein shall be constructed to authorize an excluded sex offender as defined in N.J.S.A. 2C:7-22 to serve as an employee or volunteer in a youth organization or any other entity from which the excluded sex offender is other statutorily disqualified.

D. Any Person convicted of a disorderly persons offense or petty disorderly persons offense under the laws of this State who has not been convicted of any prior or subsequent crime, whether within this State or any other jurisdiction, or of another three disorderly or petty disorderly offenses, and the disorderly or petty disorderly offense conviction occurred at least five (5) years from the date that said individual will be a volunteer for, or employee of a youth organization, shall not be considered disqualified.

**SECTION 4. REQUEST FOR CRIMINAL BACKGROUND CHECKS.**

- A. The City requires that all employees and volunteers of youth programs and certain services, either sponsored by the City or supported by the City, submit a written consent to the obtaining of a criminal history background check together with any other information deemed necessary by the City Administrator. The submission to City Administrator shall be pursuant to procedures established by the City Administrator. No person shall be permitted to act as an employee or volunteer of a youth program, until he results of the criminal history background check has been received and approved by the City Administrator.
- B. Any person who through prior compliance with the background check requirements of this Chapter or who by virtue of such person's occupation has been required by statute or otherwise to undergo a criminal history background check that is as comprehensive as the check required by this chapter may, in the discretion on the City Administrator, be exempt from the requirements of this Chapter. However, such prior criminal history background check must have been completed within the preceding five (5) years in order to be exempt.
- C. Notwithstanding prior compliance with the requirements of the Chapter, no individual shall be permitted to continue as an employee or volunteer of the City sponsored or City supported youth program unless the latest criminal history background check provided to Absecon was performed within the preceding five (5) year period.

- D. Current members of the volunteer fire company, emergency management, emergency medical organization or ambulance squad who are subject to this Chapter, who have not complied with the requirement for a criminal history background check voluntarily shall immediately apply for a background check and have a 60 day grace period to comply.

## **SECTION 5. CRIMINAL HISTORY BACKGROUND CHECK PROCEDURES.**

- A. All City sponsored or City supported youth organizations shall submit a complete list of names and addresses for all employees or volunteers subject to this Chapter. In addition, each such organization shall provide such additional information as may be required by the City Administrator. Each individual shall, through the organization, submit an executed consent form authorizing the required criminal history background check.
- B. The City Administrator shall coordinate the required background checks, including the fingerprinting through the State's approved live scan electronic fingerprinting vendor and the taking of photographs for identification cards for qualified participants.
- C. It is the responsibility of each youth organization and its management, including officers, directors and coaches, to ensure that all individuals who serve as employees or volunteers of such youth program submit and obtain a criminal history background check and are approved as a qualified participant. Refusal or failure by any individual required to submit to such a background check shall result in immediate dismissal from any City sponsored youth program and/or service and the refusal or failure of any City's supported youth program to comply with the requirements of this Chapter shall result in a denial of the use of City facilities.
- D. All, or any portion of the requirements of this Ordinance may be performed by another municipality or entity pursuant to an Inter Local Services Agreement.
- E. The City Administrator shall be responsible for the maintenance of all records generated as a result of this Chapter. All such information shall be deemed confidential and maintained in a secure location. Such records shall only be retained for such period of time as is necessary to ensure compliance with this Chapter and the laws of the State of New Jersey.

## **SECTION 6. NOTIFICATION.**

- A. The individual applying for the criminal history background check shall authorize the City Administrator to be the recipient of the affirmative or negative response from the State Police Bureau of Investigation. If appropriate, the City Administrator shall then proceed to process the individual's identification card. If the individual wishes to obtain a copy of the criminal history record, a request must be submitted to the New Jersey State Police.
- B. If the individual believes that the result of the criminal history background check is factually inaccurate the individual must contact the New Jersey State Police directly.

- C. The individual employee or volunteer may obtain a copy of the actual criminal history background check from the New Jersey State Police and may confidentially provide it to the City Administrator.
- D. Every individual issued an identification card must surrender the same to the City of Absecon upon revocation of the same pursuant to this Chapter or when said individual no longer serves as an employee or volunteer of a youth organization.

**BE IT FURTHER ORDAINED** that:

1. This ordinance shall take effect upon final adoption and publication as required by Law.
2. To the extent that any part or parts of this Ordinance are repealed or otherwise modified or voided by State Statute, case law, or a legal Body with appropriate jurisdiction the remaining sections of this Ordinance shall remain in full force and effect.
3. Any Ordinances or parts thereof inconsistent herewith are hereby repealed.

**DATED: May 15, 2014**

**SIGNED:** \_\_\_\_\_  
**John R. Armstrong, Mayor**

**ATTEST:** \_\_\_\_\_  
**Carie A. Crone, RMC, Municipal Clerk**

Passed on first reading at a regular meeting of the Municipal Council held on May 1, 2014. Laid over and advertised for public hearing and final adoption on May 15, 2014. Notice is hereby given that the foregoing Ordinance was approved for final adoption by the Municipal Council of the City of Absecon at a regular meeting held on May 15, 2014.