

ORDINANCE 1243-2016

AN ORDINANCE AMENDING SECTION 2-68 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF MOUNTAINSIDE TO INCLUDE A POLICY FOR CONDUCTING BACKGROUND CHECKS ON ALL CURRENT AND PROSPECTIVE EMPLOYEES AND VOLUNTEERS OF THE DEPARTMENT OF RECREATION

WHEREAS, N.J.S.A. 15A:3A-3 sets forth the categories of crimes and offenses which may serve as the basis for disqualifying persons who are convicted of such crimes and offenses from serving as an employee or volunteer in a nonprofit youth serving organization, and authorizes nonprofit youth serving organizations to conduct a criminal history background check on prospective employees or volunteers; and

WHEREAS, the Mayor and Council of the Borough of Mountainside have determined that the Borough's Department of Recreation should obtain criminal background checks on current and prospective employees and volunteers; and

WHEREAS, N.J.S.A. 15A:3A-3 is not mandatory, but rather permits individuals who would otherwise be disqualified to appeal such disqualification; and

WHEREAS the Mayor and Council have determined to adopt a procedure and policy to provide for such appeals.

NOW THEREFORE BE IT ORDAINED by the Mayor and Council as follows: Section 2-68 of the Revised General Ordinances of the Borough is hereby amended as follows:

2-68.6 Department of Recreation Criminal Background Check Policy.

All current and prospective employees and volunteers of the Department of Recreation must submit to a criminal record background check. No employee or volunteer shall be permitted to serve in the Department of Recreation if their criminal record background check reveals a record of conviction of a crime or offense cognizable under N.J.S.A. 15A:3A-3 unless authorized by the Mountainside Review Committee as set forth below. The criminal background check process and the appeal process will be conducted in accordance with the following procedures:

a. All criminal background checks will be conducted by the Department of Recreation and will be paid for with funds collected by the Department of Recreation that shall be derived from an additional \$5 fee assessed by each related association on every registration.

b. The Department of Recreation will notify any person whose background check disqualifies them from being employed or volunteering as soon as is practicable under the circumstances and no later than would be necessary for them to file an appeal.

c. Any person that receives notice that he/she has been disqualified from serving the Department of Recreation as a result of their background check has 20 days from the date such notice is received to file an appeal with the Recreation Director.

d. Once an appeal is filed with the Recreation Director the appellant's submission shall be reviewed by a four (4) member Review Committee composed of the Recreation Director, the Police Chief or his or her designee, the Borough Administrator or his or her designee and the School Resource Officer.

e. In reviewing an appeal the Mountainside Review Committee shall consider the appellant's entire submission, the circumstances surrounding the criminal record, any statements or information provided by the appellant and any other relevant circumstances including, but not necessarily limited to:

1. The nature and responsibility of the position which the appellant is seeking.
2. The nature and seriousness of the offense that disqualified the appellant initially.
3. The date of the offense.
4. The age of the appellant when the offense was committed.
5. Whether the offense was an isolated or repeated incident.
6. Any social conditions which may have contributed to the offense.
7. Any evidence of rehabilitation, including evidence of good conduct, a positive reputation or mental health treatment.

f. The final determination as to whether an appellant will be permitted to serve in the Department of Recreation lies exclusively with the Mountainside Review Committee which can overturn a disqualification only by unanimous vote.

g. In all instances of such an appeal the final determination will be issued by the Mountainside Review Committee within forty-five (45) days of the date the appeal was filed. Once a final decision has been made the Mountainside Review Committee shall promptly advise the appellant whether he or she is qualified to serve.

BE IT FURTHER ORDAINED THAT all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

This ordinance shall take effect immediately upon final adoption and publication and in the manner provided by law.