

**ORDINANCE NO.: 13-22**  
**INTRODUCTION DATE: 08-07-13**  
**ADOPTION DATE: 09-04-13**

**AN ORDINANCE AMENDING CHAPTER X (PERSONNEL POLICIES), BY  
CREATING SECTION 10-6 (CRIMINAL HISTORY BACKGROUND CHECKS) OF  
THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF MILLSTONE,  
MONMOUTH COUNTY, NEW JERSEY**

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**BE IT ORDAINED** by the Township Committee of the Township of Millstone, County of Monmouth and State of New Jersey, as follows:

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Chapter X, Personnel Policies, Section 10-6, Criminal History Background Checks, is hereby created to read as follows:

**10-6 CRIMINAL HISTORY BACKGROUND CHECKS.**

**10-6.1 Definitions.**

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

**CRIMINAL HISTORY RECORD BACKGROUND CHECK**

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.

**REVIEW COMMITTEE**

A three-member committee consisting of the Township Clerk or designee, Township Administrator or designee and Collective Bargaining Unit representative. The Committee shall be charged with the review of all appeals of any Township employee applicant or Township employee whose criminal history background check reveals a disqualifying criminal conviction.

**STATE BUREAU OF IDENTIFICATION**

The entity located within the New Jersey State Police responsible for retrieving criminal background information on individuals as requested by state, local or private entities.

**10-6.2 Requests for criminal background checks; costs.**

A. The Township of Millstone requires that all applicants for Township employment and all existing employees have State Bureau of Identification ("SBI") and the Federal Bureau of Investigation ("FBI") criminal history record background checks in accordance with N.J.A.C. 13:59-1.1 et seq. No person will have his/her application for employment approved until the results of the background checks have been received and reviewed by the Township's Administrator or designee.

B. The Township shall conduct a criminal history record background check as to existing employees, after acceptance of Township compensation subsequent to the effective date of this Ordinance.

C. Any prospective employee must order and pay for a criminal history background check shall not progress further in the employment process until the Township Administrator has received the results of such check.

D. The Township shall bear the costs associated with conducting criminal history record background checks for existing employees.

E. The SBI shall advise the Township Administrator of the background check results. Any information received by the Township Administrator shall be confidential, except for the purposes intended.

#### **10-6.3 Disqualification of a person from service.**

A person may be disqualified from serving as an employee depending upon what that person's criminal history record background check reveals as it may relate to the position sought or the position held with the Township.

#### **10-6.4 Submission and exchange of background information pertaining to employees.**

A. The Township Administrator or designee shall be responsible for obtaining the criminal history background check for existing employees. The Township Administrator shall coordinate criminal background checks every 36 months.

B. The Township Administrator 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 section.

#### **10-6.5 Limitations on access and use of criminal history record information.**

A. Access to criminal history record information for noncriminal justice purposes is restricted to the members of the Review Committee, as authorized by federal or state statute, rule or regulations, executive order, administrative code, local ordinance or resolution regarding obtaining and disseminating of criminal history record information obtained under this section.

B. The Review Committee shall limit its 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 organizations not authorized to receive the records for authorized purposes. Any person violating federal or state regulations governing access to criminal history record information may be subject to criminal and/or civil penalties.

#### **10-6.6 Determination by Review Committee; appeal process.**

A. The Township Administrator shall make a recommendation as to whether the prospective employee is being recommended for employment or whether an existing employee should be subject to adverse employment action.

B. The Township Administrator shall promptly notify a prospective employee who is not recommended for the position sought or an existing employee who may be subject to adverse employment action. Such individuals may obtain a copy of their criminal history record by contacting the Township Administrator in writing. The individuals shall then have 30 days from the receipt of notification from the Township Administrator to petition the Review Committee for a review and to cite reasons substantiating the review.

C. Individuals who receive a letter of nonrecommendation or adverse employment action may be permitted to serve as an employee if they affirmatively demonstrate rehabilitation to the Review Committee. In determining whether a person has affirmatively demonstrated clear and convincing evidence of rehabilitation, the Review Committee may consider the following factors:

1. The nature and responsibility of the position which the convicted person would hold;
2. The nature and seriousness of the offense;
3. The circumstance under which the offense occurred;
4. The date of the offense;
5. The age of the person when the offense was committed;
6. Whether the offense was an isolated or repeated incident;
7. Any social conditions which may have contributed to the offense; and
8. 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.

D. In all instances, the final determination of whether an individual will be permitted to proceed with the employment process or avoid adverse employment action will lie in the sole discretion of the Review Committee.

E. The Review Committee shall promptly advise the prospective employee or employee whether he or she is qualified to proceed with the employment or will be subjected to potential adverse employment action.

F. The Township Administrator shall keep the written notification on file for three years from the date it was issued.

G. 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 Township Administrator pursuant to the provisions of this section.

## **II**

All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed.

## **III**

If any section, subparagraph, sentence, clause or phrase of this Ordinance shall be held to be invalid, such decision shall not invalidate the remaining portion of this Ordinance.

## **IV**

This Ordinance shall take effect upon adoption and publication according to law.

### **EXPLANATORY STATEMENT:**

This Ordinance provides for all prospective employees and existing employees to have Criminal History Background Checks.