

# ORDINANCE

O-20-2023

BOROUGH OF NORTH CALDWELL, ESSEX COUNTY, NEW JERSEY

## AN ORDINANCE AMENDING CHAPTER 35 OF THE CODE OF THE BOROUGH OF NORTH CALDWELL REGARDING CRIMINAL HISTORY BACKGROUND CHECKS

**WHEREAS**, the Governing Body of the Borough of North Caldwell desires to amend the language of the Code of the Borough of North Caldwell, Chapter 35 Criminal Background Checks, Article I (the "Code"); and

**WHEREAS**, the Governing Body hereby finds and declares that it is in the best interest of the Borough and its residents to amend the language of the Code, Chapter 35 and adopt the amendments to same; and

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and the Governing Body of the Borough of North Caldwell, County of Essex, State of New Jersey as follows:

1. Chapter 35 is hereby amended as follows:

### ARTICLE I

#### **Nonprofit Youth-Servicing Organizations and Borough-Sponsored Programs**

##### **§ 35-1. Definitions.**

As used in this chapter:

**BOROUGH-SPONSORED PROGRAMS** — Any programs sponsored by the borough which provide and utilize borough facilities and/or borough property.

**CRIMINAL HISTORY RECORD BACKGROUND CHECK** — A determination of whether a person has a criminal record by cross-referencing that person's name and/or other pertinent information with those on file with the Federal Bureau of Investigation, Identification Division and/or the State Bureau of Identification of the New Jersey State Police.

**DEPARTMENT** — The New Jersey Department of Law and Public Safety. **[Ord. No. 3-10]**

**NONPROFIT YOUTH-SERVICING ORGANIZATION** — A corporation, association or other organization established pursuant to Title 15 of the Revised Statutes, Title 15A of the New Jersey Statutes, or other law of this state, but excluding public and nonpublic schools, which provides recreational, cultural, charitable, social or other activities or services for persons younger than 18 years of age, and is exempt from federal income taxes, and shall include the Borough of North Caldwell Recreation Department.

**VOLUNTEER** — Any person involved with a nonprofit youth-servicing organization or borough-sponsored program who has direct access to minors as a result of their involvement with the organization or program.

##### **§ 35-2. Requests for background checks. [Ord. No. 3-10]**

- A. The borough requires that all employees and volunteers of a nonprofit youth-serving organization or borough-sponsored program request, through the nonprofit youth-servicing organization or Borough Recreation 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 employee or volunteer in the manner prescribed by N.J.S.A. 15A:3A, et. seq. and administrative procedures promulgated pursuant thereto.
- B. The Division of State Police, State Bureau of Identification, Volunteer Review Operations, shall inform the nonprofit youth-servicing organization whether the person's criminal history record background check reveals a conviction of a disqualifying crime or offense set forth in § 35-3 of this chapter.
- C. A criminal history record background check shall only be conducted upon receipt of the written consent to the check from the prospective or current employee or volunteer.

##### **§ 35-3. Conditions for disqualification from service.**

A person shall be disqualified from serving as an employee or volunteer of a nonprofit youth-serving organization or of a borough-sponsored program if that person's criminal history record background check reveals a record of conviction of any of the following crimes or offenses:

A. In New Jersey, any crime or disorderly persons offense:

- (1) Involving danger to the person, meaning those crimes and disorderly persons offenses set forth in N.J.S.A. 2C:11-1 et seq., N.J.S.A. 2C:12-1 et seq., N.J.S.A. 2C:13-1 et seq., N.J.S.A. 2C:14-1 et seq., or N.J.S.A. 2C:15-1 et seq.
- (2) Against the family, children or incompetents, meaning those crimes and disorderly persons offenses set forth in N.J.S.A. 2C:24-1 et seq.
- (3) Involving theft as set forth in Chapter 20 of Title 2C of the New Jersey Statutes. **[Ord. No. 3-10]**
- (4) Involving any controlled dangerous substance or controlled substance analog as set forth in Chapter 35 of Title 2C of the New Jersey Statutes except Paragraph (4) of Subsection (a) of N.J.S.A. 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 Subsection A of this section.

**§ 35-4. Submissions; exchange of background check information. [Ord. No. 13-08; Ord. No. 3-10]]**

- A. Prospective or current employees and volunteers of nonprofit youth-serving organizations and/or employees and volunteers of borough-sponsored programs involving minors shall submit their name, address, any other reasonable information as required and written consent to the organization for the criminal history record background check to be performed. The organization or borough shall submit this documentation to the Division of State Police, or its designated agent.
- B. The Department 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 chapter.
- C. The nonprofit youth-servicing organization, or borough as to borough-sponsored programs, may require a criminal history background check every three years. If an individual is convicted of a disqualifying offense prior to the expiration of said three year period, they shall report said conviction to the Clerk of the Borough of North Caldwell.

**§ 35-5. Limitations on access and use of background checks. [Ord. No. 3-10]**

- A. Access to criminal history record information for non-criminal justice purposes, including licensing and employment, is restricted to authorized personnel of the nonprofit youth-servicing organization, on a need-to-know basis only, as may be authorized by this chapter, federal or state statute, rule or regulation, executive order or administrative code regarding obtaining and dissemination of criminal history record information obtained under this chapter, or borough personnel as to borough-sponsored programs.
- B. Such persons shall limit their 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. Use of this record shall be limited solely to the authorized purpose for which it was given and shall not be disseminated to any unauthorized persons.

**§ 35-6. Challenges to accuracy of reports. [Ord. No. 3-10]**

If the criminal history record disqualifies an applicant or existing employee or volunteer, the disqualified person shall have an opportunity to challenge the accuracy of the information contained in the criminal history record with the State Bureau of Identification in accordance with procedures established by the Department.

2. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
3. If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to that section, paragraph,

subdivision, clause or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

4. This ordinance shall take effect immediately upon passage and publication in accordance with law.

INTRODUCED: September 27, 2023  
PUBLIC HEARING: October 24, 2023  
ADOPTED: October 24, 2023

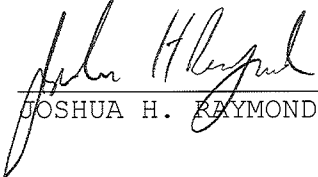
Moved By: Councilman Atlas  
Seconded By: Council President Floria-Callori

COUNCIL MEMBER	YES	NO	ABSTAIN	ABSENT	COUNCIL MEMBER	YES	NO	ABSTAIN	ABSENT
ATLAS	X				REES	X			
FLORIA-CALLORI	X				TILTON	X			
KESSLER	X				WEINSTEIN	X			

ATTEST:

  
TAMI MICHELOTTI, BOROUGH CLERK

APPROVED:

  
JOSHUA H. RAYMOND, MAYOR