O2024-16

ORDINANCE OF THE TOWN OF PHILLIPSBURG COUNTY OF WARREN, STATE OF NEW JERSEY, AMENDING CHAPTER 7 ENTITLED "BACKGROUND CHECKS, BOARD, COMMISSION OR COMMITTEE MEMBERS" OF THE CODE OF THE TOWN OF PHILLIPSBURG REGARDING BACKGROUND CHECKS NOW ENTITLED "BACKGROUND CHECKS"

WHEREAS, The Town Council believes it is in the best interest of the Town of Phillipsburg to perform background checks for individuals who are employees or applying for employment in the Town.

BE IT ORDAINED by the Town Council of the Town of Phillipsburg, County of Warren, State of New Jersey, that Chapter 7 entitled "Background Checks, Board, Commission or Committee Members" of the Code of the Town of Phillipsburg is now entitled "Background Checks" established as follows:

§7-1 Authority to request background check; exemption; cost.

A. The Town Administrator and/or Chief of Police are hereby authorized to require a criminal history background check of any person, in accordance with N.J.S.A. 40:48-1.4, for any governmental purpose, including but not limited **employment, licensing, and procurement services as well as** all current members and all applicants of any Town Board, commission or committee in which the members are appointed by the Mayor or Town Council. All persons subject to the mandatory criminal history background checks under this article shall submit to being fingerprinted in accordance with applicable state and federal laws, rules and regulations. The Town Administrator and/or Chief of Police are authorized to exchange fingerprint data with and receive criminal history information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation. Any person who has submitted to a criminal background check, upon request, shall be permitted to review the results of the check.

B. The Town, in its discretion, may charge any person required to submit to a criminal background check the actual cost paid to outside agencies for obtaining the criminal history or any percentage thereof.

§7-2 Disqualification from service.

A. A person will be automatically disqualified from **employment or** serving as a volunteer of a Town board, commission or committee if that person refuses to submit to the mandatory criminal history background check required by this article.

B. A person may also be disqualified from **employment or** serving as a volunteer of a Town board, commission or committee if that person's criminal history background check reveal a record of conviction for any crime or disorderly person's offense. Conduct in any other state which, if committed in New Jersey, would constitute a crime or disorderly person's offense shall be considered a disqualifying offense.

C. If the criminal history background check results will result in the disqualification of a volunteer or applicant for any reason, such person shall be provided an opportunity to challenge the accuracy of the information contained therein. The person shall be afforded a reasonable period of time to correct their record and provide an amended record. Failure to do so within a reasonable period shall result in disqualification.

D. The Town Administrator is hereby designated as the person for an appeal that is brought forth by any person deemed disqualified as a result of a criminal history check. The person shall have 30 days from the receipt of the notice of disqualification to petition the Administrator for a review.

E. A current **employee, volunteer or applicant to be an employee or volunteer position** need not be automatically disqualified from serving as a volunteer on a basis of conviction disclosed in a criminal history background check if said person has affirmatively demonstrated to the Administrator clear and convincing evidence of his or her rehabilitation. The Administrator 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 circumstances 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) Including, but not limited to, any evidence of rehabilitation, including good conduct, counseling or psychiatric treatment received.

Section 2 - Severability

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

Section 3 - Repealer

Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed as to their inconsistencies only.

Section 4 - Effective Date

This Ordinance shall take effect as required by law.

ATTEST:

Municipal Clerk

TOWN OF PHILLIPSBURG

Mayor

DATED:

NOTICE

NOTICE is hereby given that the foregoing Ordinance was passed on 2nd reading at a regular meeting of the Council of the Town of Phillipsburg held on July 24 2024, and ordered published in accordance with the law.

Matthew C. Hall, MPA
Acting Municipal Clerk