

ORDINANCE 8-2015
ORDINANCE OF THE BOROUGH OF MADISON ESTABLISHING CHAPTER 137 OF THE
BOROUGH CODE TO ESTABLISH POLICIES AND PROCEDURES FOR THE RECREATION
DEPARTMENT OF THE BOROUGH OF MADISON

WHEREAS, the Assistant Borough Administrator and Recreation Advisory Committee have recommended that the Borough of Madison adopt an ordinance to establish policies and procedures for the Recreation Department in the Borough of Madison; and

WHEREAS, the Council has considered this recommendation and desires to proceed with the adoption of such ordinance;

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Borough of Madison, in the County of Morris and State of New Jersey as follows:

CHAPTER # 137

RECREATION DEPARTMENT CODE AND POLICIES

§ #-1. Creation and purpose.

There hereby is created a Recreation Department in the Borough of Madison. The Recreation Department shall have as its purpose to maintain, promote and facilitate use of Borough-owned parks and recreational facilities and to provide both passive and active recreational programs, including, but not limited to, athletics and related physical programs.

§ #-2. Departmental administration.

There shall be a Borough of Madison Recreation Department, the head of which shall be the Recreation Director. With guidance from the Borough Administrator and the Recreation Advisory Committee, the Recreation Director shall: administer and operate athletic fields and facilities for indoor and outdoor sports, athletics, and recreational programs for children and adults; support and administer cultural and recreational programs, activities, and organizations; and, administer and enforce all rules, ordinances, and regulations relating to Recreation Department activities.

§ #-3. Recreation department rules and regulations.

The Madison Recreation Department shall control all lands, playgrounds and recreation places in a safe and wholesome condition for use. Suitable rules, regulations, and by-laws for the care of Borough property, for the conduct of all such persons while on or using such property, and any other appropriate regulations pertaining to Borough Recreation Programs shall be adopted by the Recreation Department with the advice and consent of the Borough Administrator and the Borough Attorney. Any person who shall violate any such rules, regulations, or by-laws shall be adjudged to be a disorderly person.

§ #-4. Organization of Sport Programs.

- A. The Borough of Madison will recognize one (1) organization for each sport as the primary organization for that sport annually by resolution; that organization shall be the one with the largest number of Madison youths participating; and that organization shall receive priority when reserving facility space. One (1) primary contact per organization shall be designated to represent each organization. Each sports organization is required to have a minimum 3 person Board of Directors.
- B. Unless waived by the Administrator, any Sports Program that is a separate legal entity which is granted permission to conduct recreational activities at Borough facilities shall provide a certificate of insurance in the amount of five hundred thousand dollars (\$500,000.00), combined single limit, covering property damage, liability and workers compensation, and naming the Borough as an additional insured with a thirty (30) day notice of cancellation.

§ #-5. Facility Allocation, Use and Maintenance.

- A. Facility use will be allocated to the various Sports Programs in accordance with policies established by the Recreation Director and the Recreation Advisory Committee, with the advice and consent of the Borough Administrator.
- B. Use of Borough facilities shall occur only after all required paperwork has been submitted to the Recreation Director as directed in this chapter, including but not limited to coach information, verification of coach training, criminal history record background checks, player information, and proof that the Code of Conduct has been distributed and enacted by every person involved.
- C. After each practice or event, the user must return the facility in a satisfactory condition, free of debris, rubbish and equipment, and shall observe all Borough ordinances, rules and regulations. Failure to do so shall be considered a violation of Borough regulations and shall result in penalties as described in Section 8 of this Chapter.

§ #-6. Mandatory criminal history record background checks.

- A. The Borough of Madison requires that all employees and volunteers, 18 years of age and older, of a nonprofit youth-serving organization as a condition of coaching or using the Borough of Madison's facilities, submit to a Criminal History Record Background Check by an Authorized Vendor. The Criminal History Record Background Check shall be required of any coach or any person with direct access to minors involved in any youth-serving recreation program as determined by the Recreation Director. The Criminal History Record Background Check shall be performed annually or in a frequency as determined by State Statute. The costs of said Criminal History Record Background Check will be borne by the applicant.
 - 1. A nonprofit youth-serving organization or organization is defined as any corporation, association or organization established pursuant to Title 15 or Title 15A of the New Jersey Revised Statutes, or other law of this state, but excluding public and nonpublic schools, and that provides recreational,

cultural, charitable, social or other services for persons younger than 18 years of age, and is exempt from federal income taxes.

- B. An Authorized Vendor is defined as a vendor which is recognized by the Recreation Department and authorized by the State of New Jersey to conduct Criminal History Record Background Checks. A Criminal History Record Background Check is defined as a background check that complies with State of New Jersey Public Law 199 Chapter 432 and all other appropriate statutes.
- C. 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 it shall not be disseminated to any unauthorized persons or entities. Any person violating federal or state regulations governing access to criminal history record information may be subject to criminal and/or civil penalties.
- D. Failure to comply with this § may result in the Borough withholding funding for the program or league, and/or prohibiting use of Borough facilities.
- E. A person may be disqualified from serving as an employee or volunteer of a nonprofit youth-serving organization if that person's criminal history record background check reveals a record of conviction of any of the following crimes or offenses:
 - 1. In New Jersey, any crime or disorder persons offense:
 - a. 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.
 - b. Against the family, children or incompetent, meaning those crimes and disorderly persons offenses set forth in N.J.S.A. 2C:14-1 et seq.
 - c. Involving theft as set forth in Chapter 20 of Title 2C of the New Jersey Revised Statutes.
 - d. Involving any controlled dangerous substance or controlled substance analog as set forth in Chapter 35 of Title 2C of the New Jersey Revised Statutes except Paragraph (4) of Subsection (a) of N.J.S.A. 2C:35-10.
 - 2. In any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offense described in Subsection E(1) of this section.
- F. For purposes of interpreting the information recorded in a criminal history record to determine the qualifications of the employee or volunteer of a nonprofit youth servicing organization and/or the employee or volunteer involved with Borough-sponsored programs involving minors, the Borough shall presume that the employee or volunteer is innocent of any charges or arrests for which there are no final dispositions on the record.

G. Challenge of accuracy of criminal history report.

1. If a criminal history record may disqualify an employee or volunteer for any purpose, the employee or volunteer shall be provided with an opportunity to complete and challenge the accuracy of the information contained in the criminal history record. The employee or volunteer shall be afforded a reasonable period of time to correct and complete this record. A person is not presumed guilty of any charges or arrests for which there are no final dispositions indicated on the record. The Recreation Department shall coordinated between the employee or volunteer and the Division of the State Police or the authorized vendor any such opportunity to complete or challenge the accuracy of the information contained in the criminal history record.
2. No person or entity shall be held liable in any civil or criminal action brought by a party based on any written notification on filed with the Police Department pursuant to the provisions of this section.

H. Notification of subsequent disqualifying offense. If an employee or volunteer is convicted of a disqualifying crime or offense as specified in Subsection E hereof after such person has cleared the required background check, such person must immediately (but no later than three days after such conviction) notify the Borough Administrator of that fact. Such person shall be immediately disqualified from his or her position.

I. Violation and penalties. Failure to comply with this section may result in the Borough withholding funding for the program or league, and/or prohibiting the use of Borough facilities.

§ #-7. Safety Regulations and Coach Training Policy.

- A. Regulations regarding the suspension of activity due to lightning or other safety related issues shall be established by the Borough Administrator and the Borough Attorney with advice and input from the Recreation Director and Recreation Advisory Committee. Said regulations shall apply to all recreation programs and all organizations that have acquired field rental permits. Signs shall be posted at each park referencing the safety and lightning regulations.
- B. A policy regarding Minimum Coach Training including but not limited to training in safety and conduct, shall be established by the Borough Administrator and the Borough Attorney with advice and input from the Recreation Director and Recreation Advisory Committee.

§ #-8. Madison Recreation Department Code of Conduct

- A. All organizations affiliated with the Madison Recreation Department must distribute and enforce a Code of Conduct as determined by the Recreation Department with the advice and consent of the Borough Administrator and the Borough Attorney. Sports Organizations are required to report all potential Code of Conduct violations to the Recreation Director and Borough Administrator as soon as possible and no later than 48 hours after the incident.

- B. Signs referencing the Code of Conduct shall be placed at every Borough owned sports facility.
- C. Compliance with Code of Conduct. Every participant, parent, guest, spectator, coach, or official attending or participating in any manner in any recreational activity, conducted under the auspices of the Madison Recreation Department, shall comply with the Code of Conduct. The Code of Conduct shall apply whether or not the event occurs within the Borough of Madison, provided it is conducted under the auspices of the Madison Recreation Department. Failure to comply with the Code of Conduct may result in suspension or other penalty as described in Section 9 of this Chapter. Without limitation, the following conduct is prohibited and shall be considered a violation of the code of conduct as determined by the Recreation Director:
- (1) **Fights, scuffles, aggressive verbal arguments, and threats.** Initiating a fight, scuffle, aggressive verbal argument or any type of physical altercation or abuse or threats of abuse, towards any participant, parent, guest, spectator, coach or official.
 - (2) **Interference with recreational activities.** Interfering with recreational activities, including, but not limited to, entering the field of play, court, or rink, during any recreational activity conducted under the auspices of the Madison Recreation Department for the purpose of physically or verbally abusing or confronting coaches.
 - (3) **Use of obscene or profane language.** Using obscene or profane language, verbally abusing an official, player, or spectator, which abuse shall be deemed to include the use of obscene or profane language, or gesture, or racial, ethnic or sexual slurs.
 - (4) **Throwing objects onto the field of play.** Throwing or causing to be deposited any object onto the field of play, court, or rink.
 - (5) **Bullying, harassment or other forms of aggressive behavior.** Bullying harassing, or exhibiting other forms of aggressive behavior.
 - (6) **Aggressive physical contact with participants.** Having aggressive physical contact with recreation participants, including, but not limited to, hitting, kicking, pushing or other forms of aggressive physical contact.
 - (7) **All other detrimental behavior.** Other behavior which may be determined by the Recreation Director to be inappropriate and detrimental to recreational participants shall include, but not be limited to, encouraging recreation participants to engage in prohibit activity or inappropriate activity.
 - (8) **Refusing to follow the order of officials.** Parents, coaches, spectators, and all other parties at any recreation event must comply with the requests and demands of all field officials, including appointed league officials. Such authority shall include the authorization to direct any person or person to immediately remove themselves from the premises.

- D. Enforcement of Code of Conduct. The Recreation Director is hereby directed to review behavior at events at which teams or individuals participate under the auspices of the Madison Recreation Department, including events outside the Borough of Madison, and to make every effort to ensure that behavior at said events complies with the Code of Conduct established by this Chapter. Individual Sports Organizations shall not take any enforcement action with regards to potential Code of Conduct violations. The Recreation Director and the Borough Administrator shall be responsible for enforcement of the Code of Conduct. Any and all allegations, claims, or charges regarding violations of the Code of Conduct may be presented to the Recreation Director and the Borough Administrator.

§ #-9. Violations, Penalties and Appeals Process.

- A. Any and all allegations, claims, or charges regarding violations of any rule or regulation established under this Chapter including but not limited to Code of Conduct, Safety Regulations, Coach Training, Criminal History Record Background Checks, or Facility Maintenance shall be presented to the Recreation Director. The Recreation Director shall inform the Borough Administrator before any action is taken. No complaint needs to be filed in order for the Recreation Director or the Borough of Madison to take action. Any penalty issued by the Recreation Director requires approval of the Borough Administrator. Penalties may include, but are not limited to, suspension of or reduction in an individual, program or organization's use of the Borough athletic field and facilities. Any penalty issued by the Recreation Director that involves a suspension in excess of three months must be reviewed by the Recreation Advisory Committee. Any individual, sports program or organization that is subject to penalty pursuant to this Chapter shall not have the right to reserve the use of Borough facilities until such penalty has expired or terminates.
- B. Appeals Process. An Appeal Committee shall be appointed when necessary to consider appeals from penalties imposed by the Recreation Director for violations of the Code of Conduct, Lightning Regulations or any other rules established under this Chapter. The Final Appeal Committee shall consist of the Borough Administrator, the Chair of the Recreation Advisory Committee, and the Recreation Director. The Final Appeal Committee shall establish whatever procedures it deems appropriate for it to review the matter, and shall be authorized to make a determination regarding the appropriateness of the penalty. Any such individual, program or organization wishing to appeal a penalty must file a written notice with the Recreation Department within ten (10) days after receipt of written notice of such penalty.

§ #-10. Additional policies and procedures possible.

The Borough of Madison reserves the right to establish additional policies and procedures as they determine in their absolute discretion.

§ #-11. Severability

If any section, provision or any other part of this Chapter, or the application of any such provision to any person or circumstances, shall be adjudged unconstitutional or invalid, the remainder of this Chapter to the extent it can be given effect or the application of such provision to person or circumstances other than those to which it is held invalid shall not be affected thereby, and to this extent the provisions of this Chapter are severable.

§ #-12. Repealer

All ordinances or parts of ordinances which are inconsistent with the provisions of this article are hereby repealed, but only to the extent of such inconsistencies.

§ #-13. Effective

This Chapter shall take effect on July 1, 2015.

ADOPTED AND APPROVED
March 9, 2015

ROBERT H. CONLEY, Mayor

Attest:

ELIZABETH OSBORNE, Borough Clerk
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