



ADMINISTRATIVE DIRECTIVE

Title: Fingerprinting and Criminal History Records Checks of Parks and Recreation Department Personnel, Contractors, and Volunteers
Issuing Department: Human Resources, Parks and Recreation
Effective Date: August 1, 2017
Approved: Gilbert Davidson, Town Manager
Type of Action: Revision (Original Effective November 15, 2010)

1.0 PURPOSE

The purpose of this directive is to establish operating practices and procedures for the implementation of the fingerprinting and criminal history records checks provisions set forth in Chapter 13-2 of the Marana Town Code.

2.0 DEPARTMENTS AFFECTED

Parks and Recreation, Human Resources

3.0 REFERENCES

- 3.1 A.R.S. § 41-1750
- 3.2 U.S. Public Law (Pub.L.) 92-544
- 3.3 National Crime Prevention and Privacy Compact, 42 U.S.C. § 14616
- 3.4 Marana Town Code, Chapter 13-2: Fingerprinting and Criminal History Records Checks of Parks and Recreation Personnel and Volunteers
- 3.5 Town of Marana Personnel Policies and Procedures, Policy 2-6: Reference Check and Background Investigation
- 3.6 Town of Marana Personnel Policies and Procedures, Policy 2-8: Fingerprinting
- 3.7 Fair Credit Reporting Act (FCRA) 15 USC § 1681 *et seq*

4.0 DEFINITIONS

- 4.1 Contract employee or contractor: An individual who performs recreational instructor services as an independent contractor for the Parks and Recreation Department pursuant to a written contract with the Town.
- 4.2 Employee: A regular, probationary or temporary, full- or part-time Town of Marana Parks and Recreation Department employee, including without limitation seasonal staff such as lifeguards.

- 4.3 Volunteer: An individual who is not an employee of the Town, but who performs services for the Town without pay, including without limitation all coaches and assistant coaches in Town sports leagues.
- 4.4 Vulnerable adult: An individual who is 18 years of age or older and who is unable to protect him or herself from abuse, neglect or exploitation by others because of a mental or physical impairment.

5.0 POLICIES AND PROCEDURES

- 5.1 Requirement. The Town shall ensure that all current or prospective Parks and Recreation Department employees, contract employees and volunteers who work directly with children under the age of 18 or vulnerable adults are fingerprinted or undergo an alternative background investigation for the purpose of obtaining state and federal criminal history record information as set forth in Chapter 13-2 of the Marana Town Code.
- 5.2 Additional Background Investigations. Fingerprinting and the associated criminal history records checks pursuant to Chapter 13-2 and this directive shall be in addition to any other background investigations administered by the Human Resources or Parks and Recreation Departments.
- 5.3 Prospective Employees. After the interview stage of the hiring process, the Human Resources Department shall direct any prospective Parks and Recreation Department employees still being considered for a position where the employee will work directly with children under the age of 18 or vulnerable adults to furnish a full set of fingerprints in a format acceptable to and able to be used by the Arizona Department of Public Safety (DPS).
 - 5.3.1 Failure of a prospective employee to furnish a full set of fingerprints as directed will result in the individual's disqualification from employment with the Town.
 - 5.3.2 If it is necessary due to operational needs to allow a prospective employee to begin employment with the Town prior to the Town's receipt of the criminal history record information, the prospective employee shall be informed that continued employment is contingent upon satisfactory results of the criminal history record information check and any other background investigation conducted by the Town.
- 5.4 Contract Employees and Volunteers. The Parks and Recreation Department shall direct any prospective contract employees or volunteers who will work directly with children under the age of 18 or vulnerable adults to either furnish a full set of fingerprints in a format acceptable to and able to be used by DPS, or to furnish the information necessary to complete an alternative background investigation.
 - 5.4.1 Failure of a prospective contract employee or volunteer to furnish a full set of fingerprints or other information for an alternative background check as directed will result in the individual's disqualification from working or volunteering in the Town's programs.
 - 5.4.2 No contract employee or volunteer will be permitted to work with children under the age of 18 or vulnerable adults until after the Town has received the results of the

criminal history record information check and concluded any other background investigations.

5.5 Submission of Fingerprints. All fingerprints obtained pursuant to Chapter 13-2 and this directive shall be submitted to DPS for the purpose of obtaining state and federal criminal history record information.

5.5.1 The Human Resources Department is responsible for submitting to DPS all fingerprints obtained from prospective employees fingerprinted pursuant to section 5.3 of this directive.

5.5.2 The Parks and Recreation Department is responsible for submitting to DPS all other fingerprints obtained pursuant to Chapter 13-2 and this directive.

5.6 Annual Investigation. The Parks and Recreation Department shall ensure that all fingerprints obtained pursuant to Chapter 13-2 and this directive are re-submitted to DPS on an annual basis for criminal history records checks. Although annual investigation is required, annual fingerprinting may not be required by DPS. The Parks and Recreation Department will follow DPS protocols regarding required frequency of fingerprinting and shall direct employees, contract employees and volunteers to be fingerprinted at the appropriate intervals. Current employees, contract employees and volunteers subject to fingerprinting pursuant to Chapter 13-2 and this directive shall furnish a full set of fingerprints as frequently as directed by the Town as a condition of continued employment, providing contract services, or volunteering in the Town's programs.

5.7 Use of Criminal History Record Information. DPS will submit the results of the criminal history record information checks to the Human Resources Department. The Human Resources Department shall review the criminal history record information and consult with the Legal Department and the Parks and Recreation Director as necessary.

5.7.1 The criminal history record information obtained from DPS shall be used only for the purpose of evaluating the fitness of current and prospective employees, contract employees and volunteers who work directly with children under the age of 18 or vulnerable adults.

5.8 Disqualification.

5.8.1 Employees. Prospective and current employees' fitness for positions that are subject to Chapter 13-2 and this directive shall be determined by the Parks and Recreation Department in conjunction with the Human Resources and Legal Departments and in accordance with state, local, and federal laws and Town personnel policies.

5.8.2 Contract employees and volunteers. Individuals are disqualified and prohibited from serving as Parks and Recreation Department contract employees or volunteers if they have been found guilty of any of the following crimes within the timeframes specified, or if they have any pending court cases for any of the disqualifying offenses:

5.8.2.1 Any felony or misdemeanor sex offenses, regardless of the amount of time since offense or conviction, including without limitation child molestation, rape, sexual assault, sexual battery, sodomy, prostitution, solicitation, or indecent exposure.

- 5.8.2.2 Any felony offenses involving violence, regardless of the amount of time since offense or conviction, including without limitation murder, manslaughter, aggravated assault, kidnapping, robbery, aggravated, or burglary.
- 5.8.2.3 Any felony offenses other than sex offenses or violent offenses within the past ten years, including without limitation drug offenses, theft, embezzlement, fraud, or child endangerment.
- 5.8.2.4 Any misdemeanor offenses involving violence within the past seven years, including without limitation assault, battery, or any domestic violence offenses.
- 5.8.2.5 More than one misdemeanor offense involving drugs or alcohol within the past seven years, including without limitation driving under the influence, drug possession, drunk and disorderly, public intoxication, or possession of drug paraphernalia.
- 5.8.2.6 Any misdemeanor offense other than violent offense or offenses involving drugs or alcohol with the past five years that would be considered a potential danger to children or vulnerable adults or is directly related to the functions of the particular contract employee or volunteer.
- 5.8.3 For purposes of this directive, “found guilty” shall mean that a person was found guilty following a trial, entered a guilty plea, entered a no contest plea accompanied by a court finding of guilt (regardless of adjudication), or received court directed programs (such as a diversion program) in lieu of conviction.
- 5.8.4 The Town shall comply with all applicable provisions of the Fair Credit Reporting Act in implementing this directive.
- 5.8.5 Nothing in this directive shall be construed as a waiver or limitation of the discretion of the Town to disqualify an individual for a position when, in the sole opinion of the Town, disqualification is in the best interests of the Town or its program participants.

6.0 RESPONSIBILITIES

- 6.1 The Human Resources Department is responsible for maintaining any and all returned fingerprints and criminal history record information received from DPS in a confidential manner and for ensuring that only authorized personnel have access to the fingerprints and information for authorized purposes. All records shall be maintained in accordance with the applicable records retention schedules. Fingerprints shall be maintained at least as long as they may be re-used pursuant to DPS protocols.
- 6.2 The Parks and Recreation Department is responsible for ensuring that annual criminal history records checks, whether through fingerprinting or alternative background investigations, are completed in a timely manner in accordance with Chapter 13-2 and this directive.
- 6.3 The Parks and Recreation Department shall be responsible for ensuring that when applicable, current employees, contract employees and volunteers are directed for fingerprinting in a timely manner in accordance with Chapter 13-2 and this directive.
- 6.4 The Human Resources Department is responsible for paying fees charged by DPS for conducting criminal history record information checks for prospective employees upon

initial hire. The Parks and Recreation Department is responsible for paying fees charged by DPS for conducting criminal history record information checks for annual resubmission of fingerprints. The Parks and Recreation Department is also responsible for all fees related to alternative background investigations conducted pursuant to Chapter 13-2 and this directive.

7.0 ATTACHMENTS

None

REVISION HISTORY

<i>REV</i>	<i>DESCRIPTION OF CHANGE</i>	<i>DATE</i>
OR	Original Release	11/15/10
REV	Revision	8/13/14
REV	Revision	8/1/17

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