

Chapter 35. CRIMINAL BACKGROUND CHECKS

§ 35-1. Legislative Intent and Purpose.

- A. This Board finds and determines that in order to promote the safety of the Village of Mastic Beach citizens and employees and the security of Village property, the Village should investigate the character of prospective applicants for employment with the Village by reviewing such applicants' criminal history report.
- B. The New York State Division of Criminal Justice Services is capable of conducting fingerprint-based searches of the criminal history reports it maintains, but it requires either statute or local law to grant it authority to conduct fingerprint and criminal history check. Subdivision 8-a of §837 of the New York State Executive Law authorizes the New York State Division of Criminal Justice Services to charge a fee when, pursuant to statute, it conducts a search of its criminal history records and returns a report thereon in connection with an application for employment.
- C. The Village Clerk is capable of conducting criminal background checks of all individuals being considered for employment of the Village of Mastic Beach, including the request of a criminal history record from the New York State Division of Criminal Justice Services.
- D. The Village Clerk or his/her deputies or designees possess **or will acquire** the equipment necessary to prepare and process fingerprints, in order to assist the Village's **Administrator or Mayor**~~Dir. Director of Personnel and Labor Relations~~ in conducting such criminal background checks.
- E. Accordingly, the purpose of this Chapter is to provide authority for fingerprinting and criminal history record checks of prospective employees of the Village of Mastic Beach.

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§ 35-2. Prospective Employees subject to Fingerprinting and Criminal Background Checks.

All applicants for employment with the Village shall be subject to fingerprinting and criminal background checks, excluding individuals who are prospective elected officials.

§ 35-3. Administration; Agreement with Division of Criminal Justice Services; Fee; Procedure.

- A. The Village Clerk shall be responsible for the administration of this Chapter and shall adopt policies and procedures for the purpose of performing fingerprinting and criminal history review of prospective employees of the Village who are subject to background checks and fingerprinting. The criminal background checks by the Village Clerk shall be made in compliance with Article 23-A of the New York State Correction Law, the Civil Service Law and other applicable statutes and laws.
- B. The Village Clerk and any other departments of the Village of Mastic Beach shall amend any existing agreement(s) with the new York State Division of Criminal Justice Services to include the criminal history reports of prospective applicants for employment in all positions with the Village, excluding individuals in an elected office Subsequent to the

effective date of the agreement referred to above, all prospective applicants for employment with the Village of Mastic Beach, as set forth in this Chapter, shall be fingerprinted for the purpose of obtaining a criminal history report from the New York State Division of Criminal Justice Services.

- C. Fingerprint cards for all prospective employees shall be prepared by the Village Clerk, or by any municipality, governmental agency or department authorized by law to issue fingerprint cards, together with any applicable fee, which fee shall be paid by the prospective employee. The appointing authority for the prospective employee may waive the applicable fee for any prospective employee, and, in that event, the fee shall be paid by the Village and be chargeable against the respective department's budget. The fingerprint card and applicable fee will be delivered to the Village Clerk, who shall forward same to the New York State Division of Criminal Justice Services for processing.
- D. The criminal history record processed by the New York State Division of Criminal Justice Services concerning prospective employees shall be submitted to the Village Clerk or his/her designee, and the appointing authority of the prospective employee for review and consideration of the contents of those records and a decision regarding the candidate's fitness for the position applied for.
- E. If a candidate has been convicted of a felony and/or misdemeanor, any decision regarding such candidate's fitness for a position must be made on a case-by-case review of the factors contained in Article 23-A of the New York State Correction Law.