ORDINANCE 08-05
BOROUGH OF DUNELLEN

BE IT ORDAINED by the Borough Council of the Borough of Dunellen, County of Middlesex, State of New Jersey, that Chapter 65, Recreation Department, is created as follows:

AN ORDINANCE REQUIRING CRIMINAL HISTORY RECORD CHECKS FOR ALL RECREATIONAL VOLUNTEERS PROVIDING SERVICES IN THE BOROUGH OF DUNELLEN RECREATIONAL PROGRAMS

BE IT ORDAINED by the Mayor and Council of the Borough of Dunellen, County of Middlesex, State of New Jersey as follows:

SECTION 1. PURPOSE

The purpose of this ordinance is to require that, effective upon the adoption of this Ordinance, all persons who volunteer their services in Dunellen Recreational Programs, and who have contact with children and teenagers as a result of such volunteer services, shall be requested to consent to a criminal history record check prior to performing any such volunteer services. Applicants for volunteer positions will be disqualified from performing volunteer services if: (1) any such applicant shall refuse to consent to a criminal history record check or (ii) if a criminal history record check to which an applicant has consented discloses a conviction for any offense which would disqualify an applicant for paid public school employment as defined in Section 1 of P.L. 1986, c. 116 (N.J.S.A. 18A: 6-7.1).

SECTION 2. CONSENT

Prior to performing any volunteer services, all applicants for volunteer positions in the Borough of Dunellen Recreation Department shall be requested to provide a written consent, on forms to be furnished by the Borough, allowing the Borough of Dunellen to perform criminal history record checks on the applicant, and authorizing the Borough of Dunellen to exchange fingerprint data and receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police for use in making the determinations to be made under this ordinance. Any applicant who refuses to consent to such a background check will not be permitted to provide volunteer services and the Borough shall decline to accept such volunteer services.

SECTION 3. SUBMISSION OF IDENTIFICATION INFORMATION.

An applicant for volunteer services shall submit to the Borough of Dunellen his or her name and address and fingerprints taken on standard fingerprint cards by the Dunellen Police Department or other law enforcement agency.
SECTION 4. NOTICE OF QUALIFICATION OR DISQUALIFICATION

Upon receipt of the criminal history record information for an applicant from the Federal Bureau of Investigation and the Division of State Police, the Borough of Dunellen shall notify the applicant, in writing, of the applicant’s qualification or disqualification as a recreational volunteer. If the applicant is disqualified, the convictions, which constitute the basis for the disqualification, shall be identified in the written notice to the applicant.

SECTION 5. ACCURACY OF THE CRIMINAL HISTORY RECORD CHECK

An applicant shall have 14 days from the date of the written notice of disqualification to challenge the accuracy of the criminal history record information. No applicant for volunteer services shall be disqualified from providing volunteer services without first having an opportunity to challenge the accuracy of the disqualifying criminal history record. Any challenge shall be decided by the governing body of the Borough of Dunellen in a confidential manner.

SECTION 6. OFFENSES CONSTITUTING GROUNDS FOR DISQUALIFICATION

A volunteer applicant shall be permanently disqualified from volunteer services if the individual’s criminal history record reveals a record of conviction for a crime or any other offense for which public school employment candidates are disqualified pursuant to section 1 of P.L. 1986, c. 116 (N.J.S.A. 18A: 6-7.1) as follows:

a) any crime of the first or second degree (i.e. severe or aggravated offenses such as murder, aggravated assault, kidnapping, sexual assault);
b) an offense set forth in Chapter 14 of Title 2C of the New Jersey Statutes (sexual offenses);
c) an offense as set forth in N.J.S.A. 2C: 24-4 (endangering welfare of children) and N.J.S.A. 2C: 24-7 (endangering welfare of incompetent person);
d) an offense as set forth in N.J.S.A. 9:6-1 (child abuse, abandonment, cruelty or neglect);
e) an offense involving the manufacture, transportation, sale, possession, distribution or habitual use of a “controlled dangerous substance” as defined in N.J.S.A. 2C: 35-1 et seq. or “drug paraphernalia” as defined pursuant to N.J.S.A. 2C: 36-1 et seq.;
f) a crime involving the use of force or the threat of force to or upon a person or property including but not limited to, robbery, aggravated assault, stalking, kidnapping, arson, manslaughter and murder;
g) a crime as set forth in Chapter 39 of Title 2C of the New Jersey Statutes (firearms and dangerous weapons);
h) a third degree crime as set forth in Chapter 20 of Title 2C of the New Jersey Statutes (theft and related offenses);
i) a crime as listed below:
   1. Recklessly endangering another person, N.J.S.A. 2C: 12-2
   2. Terroristic threats, N.J.S.A. 2C: 12-3
5. Causing or risking widespread injury or damage, N.J.S.A. 2C: 17-2
j) or conspiracy to commit or an attempt to commit any of the crimes described in this Section.

For the purposes of this section, a conviction exists if the individual has at any time been convicted under the laws of this State or under any similar statutes of the United States or any other state for a substantially equivalent crime or other offense.

If an applicant’s criminal history record check reveals that charges are pending for a crime or any other offense enumerated in section 1 of P.L. 1986 c. 116 (N.J.S.A. 18A: 6-7.1) the applicant will be notified that he or she is not eligible to provide volunteer services until the Governing Body of the Borough of Dunellen has made a determination regarding qualification or disqualification upon adjudication of the pending charges.

SECTION 7. RETENTION OF RECORDS

The Borough of Dunellen may maintain the criminal record and application documents on an applicant for no longer than three years from the date of determination as to the candidate’s qualification or disqualification for volunteer service. All documents submitted by a candidate and all criminal history record information shall be maintained by the Borough of Dunellen in a confidential manner.

SECTION 8.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court or federal or state agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 9.

Any ordinance or part thereof inconsistent with this Ordinance is repealed to the extent of such inconsistency.
SECTION 10.

This Ordinance shall take effect upon adoption and publication as required by law.