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**AN ORDINANCE AMENDING THE ADMINISTRATIVE CODE OF THE TOWNSHIP OF DEPTFORD IN THE COUNTY OF GLOUCESTER, STATE OF NEW JERSEY AUTHORIZING CRIMINAL HISTORY BACKGROUND CHECKS OF ANY PERSON WITH UNSUPERVISED DIRECT ACCESS TO MINORS PARTICIPATING IN ANY TOWNSHIP SPONSORED OR SUPPORTED PROGRAM IN CONNECTION WITH DEPTFORD TOWNSHIP RECREATION**

**WHEREAS**, the Township Council of the Township of Deptford wishes to ensure that the Township is providing the safest possible recreational programs for its youth; and

**WHEREAS**, State Law, N.J.S.A. 125A:3A-1, et seq., permits the Township to request that the Attorney General's Office conduct a criminal history record background check on each prospective and current person with unsupervised direct access to minors participating in any Township sponsored or supported program in connection with Deptford Township Recreation and;

**WHEREAS**, the Township desires that all youth recreation programs using Township facilities and/or which are funded by the Township in whole or in part, such as Girl's Softball, Little League, Youth Football, Youth Basketball, Soccer, and the like, be required to perform criminal background checks on any person with unsupervised direct access to minors, as a condition of using the Township facilities or receiving Township funds.

**NOW THEREFORE, BE IT ORDAINED** by the Township Council of the Township of Deptford, County of Gloucester, State of New Jersey, as follows:

**Section 1**

The Code of the Township of Deptford be and the same is hereby amended and supplemented as follows:

- A. Criminal history background checks of persons with unsupervised direct access to minors of youth serving recreation organizations shall be required.
- B. Definitions relative to criminal history background ordinance:
  - 1. "Sponsored" shall mean recreation run directly by the Township, including, oversight, control and/or fiscal contribution.

2. "Supported" shall mean Township provision of funding or facilities, including maintenance of facilities.
3. "Criminal history record background check" means a determination of whether a person has a criminal record by cross-referencing that persons name and fingerprints with those on file with the Federal Bureau of Investigation, Identification Division and the State Bureau of Identification in the Division of State Police.
4. "Department" means the Deptford Township Police Department.
5. "Youth serving recreation organization" or "organization" means a corporation, association or other organization, including those with nonprofit status and which provides recreational related activities or services for persons younger than eighteen (18) years of age, in connection with Deptford Township sponsored or supported sports programs or leagues.
6. "Volunteer" shall mean any person involved with a Deptford Township sponsored or supported sports program or league who has regular unsupervised direct access to minors as a result of their involvement with the organization.
7. "Supervised" shall mean to have the direction and oversight of the performance of others.
8. "Unsupervised" shall mean not supervised or under constant observation.
9. "Review committee" or "committee" shall mean a three member Committee consisting of the Township Attorney, Chief of Police and the Township Manager or their designee, in the event there is a conflict of interest. The Committee shall be charged with the review of all appeals by any employee or volunteer whose criminal history background check reveals a disqualifying criminal conviction.

C. Requests for criminal background checks; costs.

1. The Township of Deptford requires that all employees and volunteers of a youth serving recreation organization request through the Deptford Township Police Department that the State Bureau of Identification in the Division of State Police conduct a criminal history record background check on each prospective and current employee or volunteer of the organization. For the year 2005, all employees or volunteers for fall soccer, winter basketball, and midget football must have their fingerprinting and applications completed by August 1, 2005. All employees or volunteers for spring soccer, girls' softball, and boys' little league must have their fingerprinting and applications completed by November 1, 2005. Thereafter, each new employee or volunteer must have their fingerprinting and applications completed within thirty (30) days of advising the recreation organization of their desire to be a volunteer.

No volunteer or employee shall have unsupervised direct access to minors until the criminal history background check has been completed.

2. The Township shall conduct a criminal history record background check only upon receipt of the written consent for the check from the prospective or current person with direct unsupervised access to minors.
3. The Township shall bear the costs associated with conducting a criminal history background check in accordance with the fees established by the State Bureau of Identification in the Division of State Police and in accordance with N.J.S.A. 15A:3A-2(d).

4. The Division of State Police shall inform the Deptford Township Police Department whether the person's criminal history record background check reveals a conviction of a disqualifying crime or offense specified in 1.D.1.(a) of this Ordinance. Any information received by the Deptford Township Police Department shall be confidential.
5. Any person who, by virtue of their occupation, is required by statute to undergo a Federal and State criminal history record background check similar in nature to the requirements contained herein, and who can provide proof of the results of such background check, is exempt from the requirement hereunder until three (3) years has elapsed since the most current background check.

D. Conditions under which a person is disqualified from service.

1. A person may be disqualified from serving as an employee or volunteer of a youth serving recreation organization if that person's criminal history record background check reveals a record of conviction of any of the following crimes and offenses:
  - a. In New Jersey, any crime or disorderly persons offense:
    - (1) Involving danger to the person, meaning those crimes and disorderly persons offenses as set forth in N.J.S.A. 2C:11-1 et seq., such as criminal homicide; N.J.S.A. 2C:12-1 et seq., such as assault, reckless endangerment, threats, stalking; N.J.S.A. 2C:13-1 et seq., such as kidnapping; N.J.S.A. 2C:14-1 et seq., such as sexual assault; or N.J.S.A. 2C:15-1 et seq., such as robbery;
    - (2) Against the family, children or incompetents, meaning those crimes and disorderly persons offenses set forth in N.J.S.A. 2C:24-1 et seq., such as endangering the welfare of a child;

- (3) Involving theft as set forth in Chapter 20 of Title 2C of the New Jersey Statutes;
    - (4) Involving any controlled dangerous substance or controlled substance analog as set forth in chapter 25 of Title 2C of the New Jersey 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 offenses described in this section.
- E. Submission, exchange of background information.
  1. Prospective or current employees or volunteers of youth serving recreation organizations shall submit their names, address, fingerprints and written consent to the organization for the criminal history record background check to be performed. The organization shall submit this documentation to the Police Department through the Chief of Police who shall coordinate the background check and refer the information to the State Police and FBI for the initial check. Thereafter, all subsequent background checks shall be submitted to the Deptford Township Chief of Police, who shall coordinate a background check every three (3) years after the date of the initial check.
  2. The Deptford Township Police Department shall act as a clearinghouse for the collection and dissemination of information obtained as a result of conducting criminal history record background checks pursuant to this Ordinance.
- F. Limitations on access and use of criminal history record information.
  1. Access to criminal history record information for non-criminal justice purposes, including licensing and employment, is restricted to the members of the Review Committee, as authorized by Federal or State Statute, Rule or Regulation Executive Order, Administrative Code, Local Ordinance or Resolution regarding obtaining and disseminating of criminal history record information obtained under this Ordinance.

2. The Review Committee shall limit their use of criminal history record information solely to the authorized person for which it was obtained and 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. Any person violating Federal or state Regulations governing access to criminal history record information may be subject to criminal and/or civil penalties.

G. Challenge of accuracy of report.

1. If a criminal history record may disqualify an employee or volunteer for any purpose, the Review committee's determination shall be provided to the employee or volunteer 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 New Jersey State Police shall make the initial recommendation, based solely on the New Jersey State Statutes, to the Police Department who shall provide the information to the Review Committee. They shall advise the Review Committee whether or not the volunteer is being recommended. The Review Committee will receive a pre-printed form on each individual submitted to the State Police for a background check. One form will be for recommendation and the other will be for rejection. If there is a rejection, the Review Committee may still allow the employee or volunteer to participate. The New Jersey State Police will make a recommendation based on the record only. It is within the Review Committee's discretion to overturn the decision of New Jersey State Police recommendation.
2. The Review Committee shall promptly notify a prospective or current employee or volunteer whose criminal history background check reveals a disqualifying conviction. The person shall have thirty (30) days from the receipt of that notice to petition the Review Committee for a review and cite reasons substantiating the review.

3. Notwithstanding the provision of section D of this Ordinance, no person shall be disqualified from serving as an employee or volunteer of a non profit youth serving organization on the basis of any conviction disclosed by a criminal history record background check, if the person can affirmatively demonstrate rehabilitation to the Review Committee. In determining whether a person has affirmatively demonstrated rehabilitation, the Review Committee shall consider the following factors:
  - (a) The nature and responsibility of the position which the convicted person would hold or has held, as the case may be;
  - (b) The nature and seriousness of the offense;
  - (c) The circumstances under which the offense occurred;
  - (d) The date of the offense;
  - (e) The age of the person when the offense was committed;
  - (f) Whether the offense was an isolated or repeated incident;
  - (g) Any social conditions which may have contributed to the offense; and
  - (h) Any evidence of rehabilitation, including good conduct imprisonment or the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the person under their supervision.
4. The Review Committee shall promptly advise the organization, in writing, if a current or prospective employee or volunteer whose criminal history record background check reveals a disqualifying offense has affirmatively demonstrated rehabilitation under this section.

5. This section shall not apply to persons who have been convicted, adjudicated delinquent or acquitted by reason of insanity of aggravated sexual assault; sexual assault; aggravated criminal sexual contact; kidnapping pursuant to paragraph (2) of subsection c. of N.J.S.A. 2C:13-1; endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child pursuant to subsection a. of N.J.S.A. 2C:24-4; endangering the welfare of a child pursuant to paragraph (4) of subsection b. of N.J.S.A. 2C:24-4; luring or enticing pursuant to section 1 of P.L. 1993, c.291 (N.J.S.A. 2C:13-6); criminal sexual contact pursuant to N.J.S.A. 2C:14-3b, if the victim is a minor; kidnapping pursuant to N.J.S.A. 2C:13-2, or false imprisonment pursuant to N.J.S.A. 2C:13-3 if the victim is a minor and the offender is not the parent of the victim; knowingly promoting prostitution of a child pursuant to paragraph (3) or paragraph (4) of subsection b. of N.J.S.A. 2C:34-1; or an attempt to commit any of these enumerated offenses.
6. When the Review Committee receives written notification from the Police Department stating whether the criminal history record background check of a current or prospective employee or volunteer performed pursuant to the provision of N.J.S.A. 15A:3A-4 reveals a disqualifying offense or stating that the person has affirmatively demonstrated rehabilitation under this act, the organization or Review Committee may file that written notification with the Police Department.
7. The Police Department shall keep the written notification on file for three (3) years from the date it was issued.
8. The Review Committee may request the Police Department to review its files to determine if there is written notification on file stating whether a criminal history record background check of a current or prospective employee or volunteer revealed a disqualifying offense or stating that the person has affirmatively demonstrated rehabilitation under this act. A current or prospective employee or volunteer shall not be required to submit to another criminal history record background check if such written notification was issued within the past three (3) years.
9. No person or entity shall be held liable in any civil or criminal action brought by any party based on any written notification on file with the Police Department pursuant to the provisions of this Ordinance.



H. Penalty.

Failure to comply with this Ordinance may result in the Township withholding funding for the program or league, prohibiting the use of facilities, and/or prohibiting the use of facility maintenance.

Section 2.

This Ordinance shall take effect immediately after passage by the Township Council.

ADOPTED:

March 7, 2005

TOWNSHIP OF DEPTFORD

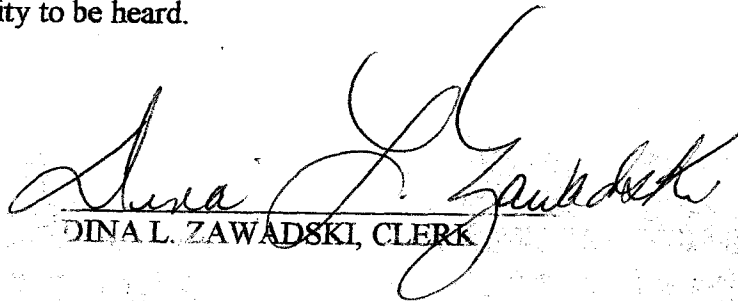
William W. Bain, Jr.  
MAYOR WILLIAM W. BAIN, JR.

ATTEST:

Dina L. Zawadski  
DINA L. ZAWADSKI, CLERK

**CERTIFICATION**

The above Ordinance was introduced and passed upon first reading at a meeting of the Township Council of the Township of Deptford held on the 7<sup>th</sup> day of February 2005 and will be taken up for final consideration and passage at the Regular meeting of Mayor and Council of the Township of Deptford to be held at the Municipal Building, 1011 Cooper Street, Deptford, NJ, Gloucester County, on the 7<sup>th</sup> day of March 2005 at 6:30 P.M. or as soon thereafter as the matter can be reached at which time any person interested shall be given an opportunity to be heard.

  
DINA L. ZAWADSKI, CLERK