

BOROUGH OF DUNELLEN
ORDINANCE # 2024- 10

The following ordinance was Introduced for first reading on May 20, 2024. A second reading, public hearing and adoption is being held at 7:00 p.m. in the Dunellen Borough Municipal Building, 355 North Avenue, Dunellen, New Jersey, on June 3, 2024, and copies of this Ordinance have been posted on the public bulletin board prior to the date for second reading and final passage and copies of this Ordinance have been available at the Office of the Borough Clerk for any interested members of the public.

**AN ORDINANCE TO AMEND CHAPTER 54 (POLICE DEPARTMENT) OF THE
BOROUGH OF DUNELLEN, COUNTY OF MIDDLESEX, STATE OF NEW JERSEY,
TO REPEAL AND REPLACE ARTICLE III (ESTABLISHMENT AND CONTROL) AND
ARTICLE VI (PROMOTIONS) WITH A NEW ARTICLE III (ESTABLISHMENT AND
CONTROL) AND A NEW ARTICLE VI (PROMOTIONS)**

WHEREAS, the Dunellen Borough and Council finds that it is in the best interest of the Borough of to repeal and replace Article III (Establishment and Control) and Article VI (Promotions) of the Chapter 54 (Police Department) of the Borough Code;

NOW THEREFORE, BE IT ORDAINED, by the Mayor and Council of Borough of Dunellen as follows:

1. Chapter 54 (Police Department), Article III (Establishment and Control) and Article VI (Promotions) shall be repealed and replaced by the following new Article III and Article VI.

ARTICLE III
Establishment and Control

§ 54-10. Police Department established.

- A. The Police Department of the Borough of Dunellen is hereby established and shall consist of the following:
 - (1) A Chief of Police.
 - (2) No more than 2 Captains.
 - (3) No more than 4 Lieutenants.
 - (4) No more than 8 Sergeants.
 - (5) No more than 24 Patrol Officers.
 - (6) The Borough Council may appoint Special Law Enforcement Officers in a number as permitted by law and consistent with §54-12.B.
- B. Chief of Police; rules and regulations.
 - (1) There shall be a Department of Police, the head of which shall be the Chief of Police.

The Chief of Police shall be appointed by the Mayor and confirmed by the Council and, prior to his/her appointment, shall be qualified through training and experience in police administration. Subordinate officers and patrol officers shall be appointed by the Police Committee and confirmed by the Council.

- (2) The appropriate authority of the Police Department shall adopt, and may supplement and amend Rules and Regulations for the Government of the Department of Police established hereby.

§ 54-11. Duties.

The duties of the officers, members and other employees of the Police Department shall be those prescribed by the laws of the state, the ordinances of the Borough of Dunellen and such rules and regulations as may, from time to time, be prescribed and established by the Mayor and Council of the Borough of Dunellen.

§ 54-12 Eligibility for Appointment to Police Officer

A. In addition to the specific qualifications for appointment to police officer as required by N.J.S.A. 40A:14-122, the general qualifications for employment with the Dunellen Police Department shall be:

1. Must be a resident of New Jersey and a citizen of the United States;
2. Must be at least 21 years of age;
3. Shall have graduated from high school or possess a General Equivalency Degree (GED);
4. Possess the ability to perform all the tasks and duties of a Police Officer, with or without reasonable accommodation;
5. Possess a valid New Jersey driver's license;
6. Be of good moral character;
7. Must be able to speak and read the English language well and intelligently;
8. If having been a member of the armed forces, shall have completed such services under honorable conditions; and
9. Have or be able to obtain PTC certification.

B. Selection of a Sworn Officer

1. The Chief of Police shall designate a primary method to advertise and accept applications for sworn officers and shall notify the Borough Administrator in writing annually of the designated method.
2. The Chief of Police, or designee, shall notify those candidates who qualify to participate in an interview conducted by an Interview Committee. Notification shall include the date, time,

and location of the interview.

3. The Interview Committee shall be conducted by a panel consisting of members from the department selected by the Chief of Police.
4. The panel involved in the interview process shall meet to discuss the results of each candidate's interview:
 - a. Anything found in the interview with the candidate that causes concern for those involved in the interview, will be discussed among the interviewers.
 - b. A list will be made with the rankings of each candidate Included in this list will be any comments/concerns that the Interview Committee have.
5. Selected candidates will participate in interviews with the Chief of Police, Police Committee, and Administration.
6. The Police Committee will identify the candidate(s) to be offered a conditional offer of employment and provide to the Borough Council for approval based on the following weighting:
 - a. Chief of Police 50%
 - b. Police Committee 25%
 - c. Administration 25%

C. Background Investigation

1. A background investigation will be conducted on all candidates for all positions prior to appointment that will include at least the following:
 - a. A review of the candidate's application to confirm/verify meeting eligibility requirements for the position applied for.
 - b. A check of the applicant's driving history..
 - c. A fingerprint check for a criminal record.
 - d. Candidates for sworn positions shall be checked against the New Jersey Central Drug and Domestic Violence Registries.
 - i. All candidates for police officer shall be subject to a criminal history check prior to the selection phase paying particular to acts of domestic violence, sexual abuse, stalking, elder abuse, or child abuse, including a check of the Domestic Violence Registry to determine the existence of any active restraining orders and to determine if there is a history of domestic violence.
 - ii. Police officer Candidates shall be interviewed about any history of acts of domestic violence, sexual assault, stalking, elder abuse, or child abuse and past or present restraining orders and their disposition. Applications for employment to the position of police officer shall be amended to require

information on these topics.

- iii. Those police officer candidates with a history of perpetrating acts of domestic violence, sexual assault, stalking, elder abuse, or child abuse shall be identified and declared ineligible for employment as police officers.

2. Verification of at least three personal references.

3. Background for candidates who are currently serving as a law enforcement officer, or formally served as a law enforcement officer, must include a review of their internal affairs file. New Jersey law enforcement agencies are required to disclose the entire internal affairs file of a candidate and a candidate with out-of-state law enforcement experience must waive confidentiality of their internal affairs file.

D. Medical Exam

A medical exam will be conducted on all sworn candidates prior to appointment, but after being given a conditional offer of employment, to certify the general health of each candidate.

E. Psychological Exam

A psychological fitness examination of each candidate for a sworn position will be conducted by a qualified professional prior to appointment, but after being given a conditional offer of employment.

F. Selection Process Non-Sworn Positions

All vacancies for non-sworn positions will be selected at the sole discretion of Dunellen pursuant to Borough policies and procedures as well as a background check consistent with Section C of this policy.

G. Appointment Of Special Law Enforcement Officers

The Police Committee and confirmed by the Council may appoint from time-to-time special law enforcement officers in accordance with New Jersey statutes for terms not exceeding one year. Such appointees shall possess and exercise all the powers and duties provided by said statutes during their term in office, but shall not be continued as regular members of the Department of Police. The Chief of Police may authorize special law enforcement officers, when on duty, to exercise the same powers and authority as regular officers of the Department of Police including the carrying of firearms and the power of arrest, except as specifically set forth in N.J.S.A. 40A:14-146.14 and 40A:14-146.15.

§ 54-13. Police headquarters.

The headquarters of the Police Department is hereby established in the police station situated at 355 North Avenue in the Borough of Dunellen, which shall be open for the transaction of business at all hours of the day or night, including Sundays.

§ 54-14. Duties and responsibilities of Chief of Police.

The Chief of Police shall be the head of the Department of Police and shall be directly responsible to the appropriate authority for the Department's efficiency and day-to-day operations. The Chief

of Police shall:

- A. Develop, administer, recommend to the Police Committee, and enforce Rules and Regulations for the Government of the Department of Police, and issue directives for the disposition and discipline of the Department personnel;
- B. Exercise and discharge the powers and duties of the Department.
- C. Prescribe the duties and assignments of all subordinates and other personnel.
- D. Delegate such authority as may be necessary for the efficient operation of the Department, the exercise of which will be under his direction and supervision.
 - E. Report at least monthly to the appropriate authority regarding the operation of the Department during the preceding month and make such other reports as may be requested by the appropriate authority or the Mayor and Council.

§ 54-15. Executive head of Department; appropriate authority.

- A. The Chief of Police shall be the executive head of the Police Department and shall be responsible for the conduct, efficiency and management of the Department, who is subject at all times to the rules, regulations, instructions and orders of the appropriate authority. All orders and instructions to members of the Police Department shall be made through the Chief or, in his absence, through the ranking acting officer.
- B. Appropriate authority. Pursuant to N.J.S.A. 40A:14-118, the Borough Administrator is hereby designated as the appropriate authority. The Borough Administrator shall have full charge of all matters pertaining to personnel administration, including serving as the hearing officer and/ or appointing an independent hearing officer to hear disciplinary charges filed pursuant to N.J.S.A. 40A:14-147.

§ 54-16. Other employment prohibited.

Each and every member of the Police Department shall devote his whole time and attention to the business of the Department. Officers may work, during their off-duty time, secondary employment, which shall be approved by the Chief, and so long as the secondary employment does not conflict with their primary employment as work as a police officer for the Borough of Dunellen.

§ 54-17. Unexplained absences.

An unexplained absence, as per department rules and regulations, for five days of any member of the Police Department shall be deemed and held to be a resignation by such member and shall be accepted as such.

§ 54-18. Compliance with orders of Police Chief.

All members of the Police Department shall at all times be subject and obligated to comply with all orders of the Chief of Police or, in his absence, the ranking acting officer, and shall be subject and obligated to comply with all rules and regulations issued or prescribed by the appropriate authority.

§ 54-19. Cause for Discipline.

- A. Any member of the Police Department shall be subject to discipline and may be removed from employment for any of the reasons set forth in N.J.S.A. 40A:14-147 or against whom any of the following charges are substantiated, namely:
- (1) Intoxication while on duty.
 - (2) Willful disobedience of an order.
 - (3) Indecent, profane or harsh language.
 - (4) Disrespect to a superior officer.
 - (5) Unnecessary violence to a prisoner.
 - (6) Absence without leave, sleeping on duty, absence from post of duty without excuse or not properly patrolling his beat.
 - (7) Immorality, indecency or lewdness.
 - (8) Incapacity, either mental or physical, lack of energy or gross ignorance of the laws and regulations of the Department.
 - (9) Being present in, except on police business, while in uniform or on duty, any establishment that sells alcohol, cannabis or any other intoxicating beverage or item.
 - (10) Violation of any criminal law.
 - (11) Making known any proposed action or movement of the force or contents of any order other than to persons immediately concerned in their execution.
 - (12) Conduct unbecoming an officer.
 - (13) Conduct subversive of good order and the discipline of the force.
 - (14) Publicly commenting on the official action of a superior officer.
 - (15) Failure to report a known violation of the law or of the ordinances of the Borough of Dunellen, or accepting a bribe or favor as a consideration either for the performance of or for the nonperformance of his duty.
 - (16) Failure to attend drill, Court or the school of instruction at the time affixed or whenever subpoenaed or ordered.
 - (17) Swearing falsely in an application for appointment to the force or to such other papers as required of him in an affidavit, as provided for in § 54-21 of this article.
 - (18) Soliciting anyone to intercede with the Chief, the Council or any superior officer in relation to promotions, changing of any beats, the disposition of pending charges of any findings of a trial before the Council, or for refusing to do duty or for evading duty of any kind whenever necessity requires, whether on patrol or elsewhere, and whether in uniform or not.
- B. Suspension and removal of officers and employees. No permanent member or officer of the Department of Police shall be removed from his office, employment or position for any cause other than incapacity, misconduct, or disobedience of the rules and regulations established for the governance of the Department of Police nor shall such member or officer be

suspended, reduced in rank, removed or fired from or in office, employment or position except for just cause as hereinbefore provided and then only upon a written complaint setting forth the charge or charges against such member or officers. Said complaint shall be filed with the Chief of Police, or with the appropriate authority in the event that the charge is against the Chief of Police, and a copy shall be served upon the member or officer so charged with notice of designated hearing date thereon which shall not be less than 10 or more than 30 days from the date of the service of the complaint. If either party requests an adjournment, the statutory time period for holding a hearing is hereby waived. The charged party shall notify the Chief of Police, or his designee, in writing if the charged requests a public hearing on the disciplinary matter. In all disciplinary matters, the appropriate authority or his/her designee shall serve as hearing officer and shall have the power and authority to dispose of the charges against the accused.

§ 54-20. Hearing procedures.

- A. The hearing officer shall have the power to subpoena witnesses and shall have the benefit of the advice of the Borough Attorney at the hearing. The appropriate authority may appoint special counsel to prosecute charges and present evidence on behalf of the Borough. All parties shall attend a hearing unless excused by hearing officer. Every party to a hearing shall be entitled to:
 - (1) Present his case and be represented by legal counsel.
 - (2) Request a subpoena of witnesses to testify or produce pertinent documentary evidence.
 - (3) Cross-examine witnesses or participants at a hearing and any other persons who may have investigated any matter involved in the hearing.
 - (4) Impeach any witness and present any affidavit, exhibits or other evidence at said hearing, but which shall not be binding.
- B. The New Jersey Rules of Evidence shall apply as a general guideline for the orderly presentation of evidence at said hearing but shall not be binding.
- C. The hearing officer shall render a written decision as soon as possible after the conclusion of the hearing and without undue delay shall provide for a true copy of the decision to be served upon each party to the hearing.

§ 54-21. Rules and regulations.

The appropriate authority shall make such rules and regulations concerning the conduct and duties of the officers, the kind of uniforms and insignias to be worn by them and such other matters as may be necessary for the proper regulation of the Police Department. When the same have been adopted by the appropriate authority and promulgated to the members and employees of the Department, they shall be known as the "Rules and Regulations for the Government of the Police Department of the Borough of Dunellen, New Jersey" and shall be binding upon each member and employee of the Department.¹

§ 54-22. Distribution of Rules and Regulations.

Each member and employee of the Police Department shall be presented with a copy of the Rules and Regulations of the Police Department. Such rules shall show what his/her duty shall be on all occasions, and also what particular provisions of any ordinance or ordinances it is his/her duty to see enforced, upon his being apprised of the violation of the provisions of any of the ordinances of the Borough of Dunellen. Any neglect by any member of the Police Department to carry out each and every rule and regulation or order, as aforesaid, shall be held to be sufficient cause for his dismissal from the Department.

**ARTICLE VI
Promotions**

§ 54-39. Review process.

Promotional methods and procedures are herein established within the Dunellen Police Department for the ranks of Sergeant, Lieutenant, Captain and Chief of Police as described below.

- (1) Promotions in the Police Department shall be made on the basis of merit and fitness.
- (2) The promotional review process for each rank under consideration shall consist of the following components with the weight of each component of the process described below:

	Sergeant & Lieutenant	Captain	Chief
Police Committee Review	25%	25%	30%
Administration Review	20%	25%	30%
Chief of Police Recommendation	30%	20%	N/A
Time in Service	10%	15%	15%
Training/Education	10%	10%	15%
Community Engagement and Additional Responsibilities	5%	5%	10%

- (3) Contained within each component are areas of evaluation. The Police Committee shall

make recommendations to the Council as to the promotion of candidates based upon the above components.

§ 54-40. Police Committee review.

The Police Committee's review shall be derived from the following areas of evaluation: personal profile, personnel file and oral interview. An oral interview shall be conducted for all candidates by the Police Committee.

A. Personal profile.

(1) A minimum of two weeks prior to an oral interview before the Police Committee, each candidate shall prepare and provide to the Chief of Police a typed personal profile of himself/herself. The personal profile shall include, at a minimum, the career objective of the candidate; educational achievements (including academic achievements, as well as law enforcement, management, instructor and military training); responsibilities within the Police Department; commendations; disciplinary actions, including the results of any action taken against the candidate; volunteer work in the Borough; and sick record for the preceding five years.

(2) The candidate may include any additional information which he/she believes would help the candidate and would be relevant to the Police Committee. Each candidate's personal profile will be reviewed by the Police Committee before the oral interview. It will be evaluated with the candidate during the oral interview.

B. Oral interview. The Police Committee shall evaluate the following areas during the oral interview.

(1) Personnel file.

(2) Personal profile.

(3) Personal profile presentation.

(4) Knowledge of community.

(5) Professional demeanor and presentation.

(6) Adaptability.

(7) Communication skills.

(8) Knowledge of policy and procedures.

(9) Departmental file.

(10) Professional judgment.

C. Upon completion of the Police Committee review, each candidate shall be given a numerical score. The numerical score will be derived from each area of the oral interview, utilizing a scale of zero to 10. Areas will be totaled for an overall score utilizing a scale of zero to 100.

§ 54-41. Administration review.

The Administration review shall consist of the Mayor and the Administrator, or their designees. Each shall have equal weight and be derived from the following areas of evaluation: personal profile, personnel file and oral interview. An oral interview shall be conducted for all candidates by Administration.

A. Oral interview. The Administration shall evaluate the following areas during the oral interview.

(1) Personnel file.

(2) Personal profile as prepared for the Police Committee review.

- (3) Personal profile presentation.
- (4) Knowledge of community.
- (5) Professional demeanor and presentation.
- (6) Adaptability.
- (7) Communication skills.
- (8) Knowledge of policy and procedures.
- (9) Departmental file.
- (10) Professional judgment.

B. Upon completion of the Administration review, each candidate shall be given a numerical score. The numerical score will be derived from each area of the oral interview, utilizing a scale of zero to 10. Areas will be totaled for an overall score utilizing a scale of zero to 100.

§ 54-42. Chief of Police recommendation.

A. The Chief of Police in rendering recommendations in connection with the promotional process will review the performance-related areas for each candidate.

- (1) Experience;
- (2) Compliance with the Rules and Regulations of the Police Department;
- (3) Professional judgment;
- (4) Quality of work;
- (5) Attendance;
- (6) Promotional potential in a supervisory capacity defined as use of independent judgment in the performance of duties, ability to supervise personnel and give directions and orders;
- (7) Disciplinary record; and
- (8) Commendations.

Each candidate shall be given a numerical score for each area of the Chief of Police recommendation component utilizing a scale of zero to 10. Areas will be totaled for an overall score utilizing a scale of zero to 100.

§ 54-43. Time in service.

Chief of Police shall forward to the Police Committee the Borough time in service of each applicant prior to the oral interview. In accordance with N.J.S.A. 40A:14-129, due consideration shall be given to a member's length and merit of service as a police officer to the Borough. Additionally, the Borough will consider full-time military experience and/or other sworn law enforcement experience. In such a case, their years of service will be the average of years of service to Dunellen and their years of service in other military or sworn law enforcement. For instance, an individual

with a total of 12 years of military experience and police service to the Borough, 6 years of which are with the Borough would have 9 years of service for the sake of the numerical score. A numerical score for each candidate shall be determined by giving the candidate with the longest time in service a score of 100 and all other candidates a numerical score equal to the percentage, rounded to the nearest whole number, of his/ her time in service in comparison to the candidate with the longest time in service.

§ 54-44. Training/education.

Law enforcement training, management training, instructor training, military training and academic achievements shall be considered by the Police Committee in evaluating this component of the process. Each candidate shall be given a numerical score for each area of the training/ education component utilizing a scale of zero to 20. Areas will be totaled for an overall score utilizing a scale of zero to 100.

§ 54-45. Community Engagement and Additional Responsibilities.

The Police Committee shall evaluate certain criteria that extends above and beyond the standard parameters of professional responsibilities. These criteria consist of increased levels of community engagement and additional responsibilities officers oversee. Community engagement through means outside of standard, professional interaction, whether through volunteer organizations, community functions or otherwise will be considered regarding the candidate's involvement and immersion in the community. Applicants with additional responsibilities that were requested or volunteered for, such as the Detective Bureau, Traffic Division, Range Instructor, In-Service Training Coordinator and any other task that dictates additional training and responsibilities and in which the officer has taken on without being ordered or assigned. After consideration of the above factors, each applicant will be given a numerical overall score of zero to 100. The weight of the above component will be 5% or 10% of the overall score, depending on the position applied for.

§ 54-46. Review of personnel file by Council.

Every candidate shall sign a written waiver authorizing Council to review the candidate's personnel file during the promotional process and in executive session.

§ 54-47. Minimum service time for promotional consideration.

No person shall be eligible for promotion to supervisory officer position unless:

- A. Sergeant: minimum of three years in the Dunellen Police Department as a patrolman.
- B. Lieutenant: must have held the rank of Sergeant in the Dunellen Police Department for at least one year.
- C. Captain: must have held the rank of Sergeant and/or Lieutenant in the Dunellen Police Department for at least one year.
- D. Chief: must have held the rank of Lieutenant and/or Captain in the Dunellen Police Department for at least one year.
- E. In the event that there are no candidates eligible based on years in rank for an open promotion, the Borough may opt to promote another candidate following the evaluation criteria prescribed above.

§ 54-48. Promotional scores.

The scores derived from the promotional process shall result in a listing of names in order of total score eligible for promotion. The list may remain valid for a period of up to two years from completion of the promotional process.

At the end of the promotional process, council shall return to the candidate's personnel file any materials reviewed by Council and any reports generated by a physician as a result of a physical or psychological evaluation ordered by Council for purposes of promotion.

§ 54-49. Probationary nature of promotions. [Amended 4-4-2011 by Ord. No. 2011-02]

All promotions are based on a probationary period of one year. Should a candidate be promoted and not meet the expectations of Council, he/she will return to his/her last rank and his/her pay will be reduced back to the appropriate level. In the event that a candidate does not fulfill the expectations of Council during the one-year probationary period, resulting in a return to former rank and pay, a new evaluation for promotion shall ensue of all eligible candidates.

§ 54-50. Assessment of probationary period.

The Council may solicit the opinion of the Chief of Police in assessing the candidate's probationary period, with the exception that Council will not solicit the opinion of the Chief of Police in assessing the new Chief's probationary period. In the case of a new Chief, the Council will solicit the opinion of the appropriate authority.

§ 54-51. Decision of Mayor in case of tie.

Should there be a tie among two or more candidates for the same position after consideration by Council, the Mayor will cast the deciding vote to select the most qualified candidate.

Approved June 3, 2024