

THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN
BY-LAW NO. 2019-46

Being a By-law to adopt an employee/volunteer police background check policy.


WHEREAS the Council of the Municipality of Magnetawan deems it desirable to minimize risk on behalf of the Municipality by establishing a policy to ensure certain employees and volunteers obtain appropriate background checks;

NOW THEREFORE the Council of the Corporation of the Municipality of Magnetawan enacts as follows:


1. **THAT** the Magnetawan Employee/Volunteer Police Background Check Policy shall be adopted in the form attached hereto as Schedule 'A' and forming part of this by-law;
2. **AND THAT** this Policy shall come into effect as of the date of passing of this by-law.

READ A FIRST, SECOND, AND THIRD TIME, passed, signed and the Seal of the Corporation affixed hereto, this 10th day of July, 2019.

**THE CORPORATION OF THE
MUNICIPALITY OF MAGNETAWAN**



Mayor



CAO/Clerk

SCHEDULE 'A' to BY-LAW 2019-46

MAGNETAWAN EMPLOYEE/VOLUNTEER POLICE BACKGROUND CHECK POLICY

July 10th 2019

POLICY STATEMENT

This policy applies to all new municipal employees and volunteers, including but not limited to regular, full-time, part-time, temporary and contract employees and to volunteers, students, interns and members of Boards and Committees, (collectively called "employees"). The policy may also apply to employees who are being assigned or promoted into a position requiring a vulnerable sector screening check where the employee did not submit such a check at the time he or she was/is employed by the Municipality.

This policy is intended to supplement any other requirements imposed by applicable legislation or standards of professional practice. The policy will be implemented in a manner consistent with the *Ontario Human Rights Code*, the *Municipal Freedom of Information and Protection of Privacy Act*, the *Criminal Records Act*, and any other applicable legislation.

PURPOSE

In order to minimize risk and protect the Municipality's employees, volunteers, citizens and assets, the Municipality has implemented a policy on police background checks for new employees, students, volunteers and Board/Committee members. Depending on the nature of the position, the risk inherent in the position, and any applicable legislation, the employee or volunteer will be required to provide the Municipality with either a criminal records check or a vulnerable sector screening check. Where the requirement for a renewed police background check is dictated by legislation, the employee may be required to renew the police background check at designated intervals.

DEFINITIONS

Bona Fide Occupational Requirement (BFOR): A requirement or qualification of a position, necessitated by the safe, efficient, and reliable performance of the essential duties of the job or the functioning of the organization. Submission of a police reference check may be a bona fide occupational requirement if:

- a clear police background check is mandated by legislation or by policy of a Provincial or Federal authority; or
- a clear police background check is required to fulfill some other requirement of the position (e.g. a class of driver's license); or
- the individual performing the position is in a position of trust or authority over vulnerable persons; or
- the position requires the incumbent to handle cash in a relatively unsupervised environment; or
- the position is one that involves security or safety of assets or persons including access to master keys and master codes/passwords.

Clerk-Administrator: refers to the Clerk-Administrator for the Municipality of Magnetawan who is authorized and approved to submit and receive police record information.

Department: includes any Department, committee or board of the Municipality

Designated Position: a position determined by the Municipality as requiring a Police Background Check. A position is designated only if a Police Background Check is a bona fide occupational requirement (BFOR) as defined in this policy.

Employee: includes all municipal employees and also includes but not limited to regular, temporary and contract employees, students, volunteers, volunteer firefighters and members of Boards and Committees. Employee shall also include prospective employees who are considered for employment in a designated position as defined in this Policy.

Police Background Check: means a process where the police conduct a check of an individual's records through the Canadian Police Information Centre (CPIC) and provide a report on their findings to the individual requesting the Police Background Check. The report may contain information about criminal convictions, federal or provincial charges discharged or pending, and probation or probation orders. There are two (2) forms of Police Background Checks:

- ***Criminal Records Check*** - a process conducted by a police authority which identifies whether or not an individual has a criminal conviction for which a pardon has not been granted and/or outstanding criminal charges in their name in Canada.
- ***Vulnerable Sector Screening Check*** - in addition to the information provided in the Criminal Records Check, the Vulnerable Sector Screening Check identifies whether or not an individual has a sexual offence recorded in their name in Canada for which a pardon has been granted or issued. This check is only used for individuals seeking employment or volunteer opportunities with children or vulnerable persons, depending on the nature of the position.

Pardon: a decision by the National Parole Board upon application by an individual to have his or her record sealed. Once a pardon is granted, the records, including fingerprints, photographs and RCMP and court records are then sealed, and never opened unless the individual is subsequently charged with a criminal offence or unless, for sexual offences, a record is disclosed during a Vulnerable Sector Screening Check.

Personal Criminal History: means, in respect of an individual, information on criminal offences of which the individual has been convicted under the *Criminal Records Act* (Canada) and for which a pardon under Section 4.1 of the *Criminal Records Act* (Canada) has not been issued or granted to the individual

Vulnerable Persons: in accordance with the *Criminal Records Act*, means persons who, because of their age, a disability, or other circumstances, whether temporary or permanent;

- are in a position of dependence on others; or
- are otherwise at greater risk than the general population of being harmed by persons in a position of authority or trust relative to them.

PROCEDURE

- All prospective new employees of the Corporation of the Municipality of Magnetawan will submit to a Police Background Check within two weeks of being offered a position of employment with the Municipality. The offer of employment will specifically indicate that the opportunity for employment or volunteer service is conditional upon the submission of a Police Background Check within the probationary period. The probationary period may be extended until such time as a Police Background Check is submitted. Employment may be terminated pending the receipt of the Police Background Check. If the work or volunteer duties require an individual to have supervised and/or unsupervised access to vulnerable persons, the additional Vulnerable Sector Screening Check will

also be required to be submitted. Vulnerable Sector Checks and Police Background Checks are required to be updated every two years from date of issue.

- The Municipality of Magnetawan reserves the right to request a current employee or volunteer to obtain a Police Background Check if it is deemed necessary.
- Individuals who fail to provide the police background check as a condition of employment within the probationary period and who are not granted an extension, will be dismissed.
- Generally, the Police Background Check will be required only when the hiring body identifies that an individual is the preferred candidate for employment or voluntary service. An offer of employment or an offer of voluntary service will be made conditional on the individual providing a Police Background Check. The candidate/applicant must pay the current fee for the Police Background Check. Any cost incurred in obtaining a Police Background Check will be reimbursed to the applicant should he/she be chosen for a position with the Municipality. The individual will submit to a police background check within two weeks of being offered the position and submit the police background check prior to the expiry of the probationary period.
- The requirement for a Police Background Check shall not apply to persons 17 years of age or under.
- Any employee that will be driving a vehicle owned by the Municipality of Magnetawan will be required to provide a Driver's Abstract to the municipality on an annual basis
- In the event of a positive Police Background Check, the Municipality will adhere to the following guidelines:
 - If an applicant, student, employee or volunteer has a criminal record, the Clerk Administrator will review the seriousness and relevance of the criminal record and a determination will be made on whether the person can be hired, or if hired under the terms of paragraph 1 above, whether the person will be terminated.
 - In determining the appropriate course of action, some considerations will be: length of time since offence(s), did the offence involve children and/or sexual activity and/or acts of dishonesty; employment history; steps taken to rehabilitate; likelihood offence will be repeated; attitude towards offence(s); was alcohol or illegal drugs a factor in the commission of the offence(s) and; relevance of offence(s) to their employment duties

CONFIDENTIALITY

To protect the interests of employees and volunteers, the Municipality of Magnetawan commits to keep the information confidential and will only use the information gathered under this policy in relation to the purpose for which it is intended (recruitment or volunteer process).

APPLICABLE POSITIONS

The following positions require a Criminal Records Check:

Clerk Administrator, Deputy-Clerk, Treasurer, Administrative Assistant, Office Assistant, Landfill Attendant, Labourers, Chief Building Official, Building Inspector, Public Works Superintendent, Public Works Staff, Parks & Maintenance Staff, Contract positions.

The following positions require a Vulnerable Sector Screening Check:

Swim Instructor (if over 17 years of age), Recreation employees, Volunteer Fire Department members, Recreation Committee members working with youth or vulnerable persons, all Volunteers and employees working with youth or vulnerable persons.

EXEMPTIONS

Notwithstanding the requirements of this by-law, the following Committees and Boards are exempt from the requirements of this by-law: Library Board, Cemetery Committee, Community Centre Board, Heritage Centre Board, members who do not work with youth or vulnerable persons.