



Policy Title: Criminal Record Check Policy **Policy #:** HR 2020-02

Section: HUMAN RESOURCES

Initially Approved: new
Last Reviewed: n/a
Council Approval: 2020-02-10
Next Review Scheduled: 2021-01

PURPOSE:

The Village of Warfield will require Criminal Record Checks for all prospective candidates applying for positions designated as sensitive positions by the Village of Warfield.

POLICY GOAL:

Criminal Record Checks on candidates applying for sensitive positions with the Village of Warfield demonstrates due diligence in protecting the interests of the Village and its residents. Criminal history disclosed by a Criminal Record Check, or failure to provide a Criminal Record Check, may render a candidate ineligible for employment with the Village in a sensitive position.

SCOPE:

This policy applies to all prospective candidates, including internal candidates, for each permanent, temporary full-time or part-time position deemed to be a sensitive position by the Village of Warfield, regardless of whether the position is a paid position or a volunteer, student, intern or otherwise unpaid position.

DEFINITIONS:

In this Policy:

1. **Criminal Record Check** means a Certified Criminal Record Check obtained from the Royal Canadian Mounted Police ("RCMP") pursuant to the application procedures established by the RCMP, as may be amended from time to time;
2. **Pardon** means an official document issued by the National Parole Board indicating a person with a criminal record is forgiven and that their record has been sealed, meaning that the person receiving the Pardon is not required to declare their previous criminal record;
3. **Sensitive Position** means:
 - a. a position with an ongoing or significant relationship with vulnerable persons, where the nature of the position places the worker in a position of trust or care, or where the worker may have unsupervised access to vulnerable persons in the ordinary course of carrying out the duties of the position;
 - b. a position with significant duties involving the handling, investing, and/or protection of material assets belonging to the Village of Warfield, including but not limited to money;

- c. a position with significant duties related to regulatory, emergency response and/or inspectional work to safeguard public health and safety and/or ensure bylaw compliance, which may include responsibilities to interface with the public, enter onto private property and/or generate revenue collection for the Village of Warfield; and
 - d. such other positions reasonably designated as a sensitive position based on additional written criteria which is deemed appropriate by the Chief Administrative Officer from time to time.
4. **Vulnerable Person** means:
- a. a child, namely an individual under 19 years of age;
 - b. an individual 19 years or older who receives or may need community care services because of a disability, age or illness, or who is or may be unable to take care of themselves or protect themselves against significant harm or exploitation; a vulnerable adult is a person who, for whatever reason, is at greater than normal risk of abuse; examples of vulnerable adults may include older people, especially those who are unwell, frail, confused and unable either to stand up for themselves or keep track of their affairs and people who are open to abuse because of learning difficulties, physical disabilities, intellectual disabilities or mental illness; and
 - c. such other persons reasonably designated as vulnerable based on additional written criteria which is deemed appropriate by the Chief Administrative Officer.

GUIDELINES:

1. The Criminal Records Review Act, R.S.B.C. 1996, c. 86 (the "CRRA") does not impose a general duty on municipalities to ensure that every individual who is hired for employment involving work with children or work with vulnerable adults undergoes a criminal record check in accordance with the CRRA. Nevertheless, it is prudent for the Village of Warfield to implement a Criminal Record Check Policy to protect the interests of the Village and its residents.
 2. This policy applies to all prospective candidates, including internal candidates, for each permanent, temporary full-time or part-time position deemed to be a sensitive position by the Village, regardless of whether the position is a paid position or a volunteer, student, intern or otherwise unpaid position.
 3. A Criminal Record Check is satisfactory, and permits a prospective candidate to be considered for a sensitive position if:
 - a. the Criminal Record Check is negative (e.g. indicates no prior convictions and/or existing charges);
 - b. the Criminal Record Check consists only of one or more pardons;
 - c. the Criminal Record Check is positive, but where the Chief Administrative Officer (in consultation with others pursuant to RESPONSIBILITIES clause 1.d. below) determines that any existing convictions and/or charges are unrelated to the proper performance of the duties of the sensitive position.
 4. A prospective candidate for a sensitive position who refuses or neglects to provide a Criminal Record Check as required under this policy is ineligible for the sensitive position.
 5. The Village will not refuse a sensitive position to an individual because they have been charged with or convicted of an offence that is unrelated to the proper performance of the duties of the sensitive position.
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PROCEDURES:

Prospective Candidates

1. The Chief Administrative Officer will determine whether a Criminal Record Check is required for each vacant position against the definition of "sensitive position" set out above.
2. All posts for sensitive positions requiring a Criminal Record Check will be identified as such in the posting or advertisement.
3. Candidates interviewed for sensitive positions will be advised in the interview that the successful candidate will receive a confirmation of employment only after presenting a satisfactory Criminal Record Check. Any costs incurred in obtaining the document shall be reimbursed by the Village.
4. If the successful candidate, on receiving the Criminal Record Check, chooses to withdraw their application, they may do so without prejudice.
5. A positive Criminal Record Check will be immediately referred to the Chief Administrative Officer for consideration (see RESPONSIBILITIES clause 1.d. below).
6. Should the RCMP notify staff that there is information on file about the prospective candidate, the prospective candidate may be requested to authorize the release of the information.
7. Should a prospective candidate with a positive Criminal Record Check be the successful candidate for a vacant position, the Criminal Record Check will be sealed in the successful candidate's personnel file.

Successful Candidates

8. A successful candidate for a paid or unpaid position which is deemed to be a sensitive position and requires a Criminal Record Check, during the entire term of employment with the Village, shall immediately notify the Chief Administrative Officer when the employee is convicted of an offence under the Criminal Code, R.S.C. 1985, c. C-46 (the "Criminal Code"). The Chief Administrative Officer will review the conviction to determine what action, if any, ought to be taken in light of the employee's paid or unpaid position and the nature of the criminal conviction
9. A successful candidate for a paid or unpaid position which is deemed to be a sensitive position and requires a Criminal Record Check, during the entire term of employment with the Village, shall immediately notify the Chief Administrative Officer when charged with an offence under the Criminal Code where the nature of the offence is such as to be potentially harmful or detrimental to the Village's reputation or capacity to deliver services to the public, will render the employee unable to properly perform some or all of their duties, may have a harmful effect on other employees of the Village, or for any other reason consistent with the purpose of designating the paid or unpaid position as a sensitive position.
10. Without restricting the generality of the foregoing, an employee must report a criminal charge under Procedures clause 9 above when charged with the following offences:
 - a. any violent sexual offence under the Criminal Code;
 - b. any offence under the Criminal Code involving children under 19 years of age;
 - c. violent or predatory crimes involving a vulnerable person, including but not limited to threats, stalking, assault, and the use, possession or distribution of a weapon;
 - d. any offence involving the making, possession or distribution of child pornography;
 - e. theft (over \$100) or fraud; and

- f. motor vehicle and/or driving offences.
11. All additional information pertaining to criminal convictions and/or charges shall be retained in the manner outlined in Procedures clause 7 above.

RESPONSIBILITIES:

1. It is the responsibility of the Chief Administrative Officer to:
 - a. determine whether a position should be designated as a sensitive position using the criteria set out in this policy;
 - b. maintain a list of sensitive positions, insert notification on postings, and advise candidates in the interview process if a Criminal Records Check is required;
 - c. ensure Criminal Record Checks are produced and are satisfactory prior to filling a vacant position and before the start date;
 - d. determine the impact of a positive Criminal Record Check on an individual's candidacy for a sensitive position in accordance with this policy. In fulfilling this responsibility, they may consult other appropriate Village staff on a need-to-know basis and otherwise as reasonably necessary.
2. It is the responsibility of prospective candidates in sensitive positions to comply with their obligations under this policy, including but not limited to obtaining, a Criminal Record Check to support their prospective candidacy for a sensitive position.

Attachments:

List of designated sensitive positions

Related Policies, Bylaws or Legislation:

Criminal Code, [RSC 1985] Chapter C-46

Community Care and Assisted Living Act, [SBC 2002] Chapter 76

Child Care Licensing Regulation BC Reg 332/2007 OIC 728/2007

Criminal Records Review Act, R.S.B.C. 1996, Chapter 86

**VILLAGE OF WARFIELD
POSITIONS DESIGNATED "SENSITIVE POSITIONS"**

Contract:

- Youth Coordinator (contracted employee)
- Bylaw Enforcement Officer (contracted service employee)

Canadian Union of Public Employees Collective Agreement Job Descriptions:

- Administrative Clerk I
- Administrative Clerk II
- Senior Administrative Clerk
- Cashier/Receptionist (Summer Employment – Pool)
- Preschool Supervisor
- Preschool Instructor

Management:

- Chief Financial Officer