

 <b>Guelph/Eramosa Township</b>		<b>CORPORATE POLICY MANUAL</b>  <b>Policy No: COR-0225</b> <b>Effective Date: 21/06/2021</b>
<i>SUBJECT</i>	<b>Body-Worn Cameras Policy</b>	
<i>Department/Category</i>	<b>Legislative Services Department</b>	
<i>Related Documents</i>		

**PURPOSE**

It is the purpose of this policy to authorize Township staff to deploy and use body-worn cameras and to ensure that their use by staff occur in such a way as to make certain that public interests are served by:

- Improving the transparency of the Township with regards to any potential allegations of discreditable conduct, improper conduct or other types of misconduct by staff;
- Ensuring the accountability of the Township and Township staff through internal and public oversight systems;
- Protecting individuals’ right to privacy by limiting access to recordings from body-worn cameras to the greatest extent possible and to a limited number of people as possible;
- Ensuring individuals have access to personal information pertaining to them which is collected by the body-worn cameras;
- Enhancing public trust during the enforcement process;
- Enhancing public and officer safety;
- Providing improved evidence for investigative, judicial and oversight purposes;
- Ensuring a timely and fair response to misconduct allegations against staff, in a manner that enhances public and staff confidence in the Township’s complaint and enforcement process; and
- Providing information as to the effectiveness of Township’s procedures and training.

**POLICY**

It is the policy of the Legislative Services department that officers shall activate the BWCs (Body-Worn Cameras) when such use is appropriate to the proper performance of their official duties, where the recordings are consistent with this policy and law. This policy does not govern the use of surreptitious recording devices used in undercover operations.

**PROCEDURES**

1. **General**

This policy is designed to:

- 1.1. Implement the recommendations set out in the Office of the Privacy Commissioner of Canada's Guidance for the *Use of Body-Worn Cameras by Law Enforcement Authorities (2015)*, and ensure that new recommendations and best practices continue to be monitored and implemented as they are identified by the relevant Provincial and Federal authorities.
- 1.2. Specifically identify the legislative authority for the collection of personal information that will be captured by the cameras and ensure that any such collection aligns with that authority and all other relevant legislation, including any legislative provisions addressing data, information or records storage, access, use and/or disclosure;
- 1.3. Ensure that all use of body-worn cameras and their recordings is consistent with the Ontario Human Rights Code.
- 1.4. Failure to comply with any provision of this policy shall not invalidate any proceeding or any step, document or order in a proceeding otherwise in accordance with any municipal by-law, provincial or federal legislation.

## 2. **Administration**

The Township has adopted the use of body-worn cameras to accomplish several objectives. The primary objectives are as follows:

- 2.1. Body-worn cameras allow for accurate documentation of officer-public contacts, investigations, and critical incidents. They also serve to enhance the accuracy of officer reports and testimony in court.
- 2.2. Audio and video recordings also enhance the Township's ability to review enforcement proceedings, officer's interaction with the members of the public, the gathering of evidence for investigative and prosecutorial purposes and to provide additional information for officer evaluation and training.
- 2.3. The body-worn cameras may also be useful in documenting infractions, violations and accident scenes or other events that include the confiscation, removal of equipment, personal items and vehicles from Township or private property.

## 3. **When and How to Use the Body-Worn Cameras (BWC)**

- 3.1. Officers shall activate their body-worn camera prior to all interactions with the public that are undertaken in whole or in part to further a valid law enforcement purpose, unless an unexpected and immediate threat to the life or safety of the officer or of a member of the public makes it impossible or dangerous to activate the body-worn camera prior to that interaction, in which case the officer is required to activate the body-worn camera at the earliest opportunity thereafter.

- 3.2. Officers may not deactivate the body-worn camera until all interaction with the public has ended, except for specific circumstances which are clearly defined in this policy and are as limited as possible, and where such exceptions serve to protect the dignity of members of the public, in which cases the Officer must record the specific reason for deactivation.
- 3.3. Officers may not intentionally prevent the body-worn camera from capturing video or audio during an interaction with a member of the public in accordance with Section 3.1 (e.g., by obstructing the lens or microphone), with the sole exception of temporarily covering the lens to protect the dignity of an individual during situations of a sensitive nature (e.g., when encountering a person in a state of undress), and then only for the shortest time possible while taking steps to protect the dignity of the individual, and provided that the officer is not in a situation where they might be encountering an element of danger while the lens is covered.
- 3.4. Officers must whenever possible inform members of the public that they are being recorded at the earliest opportunity during an interaction.
- 3.5. No person shall be permitted to review the recordings at the scene.
- 3.6. Notwithstanding sections 3.1 and 3.2 above:
  - a. Officers, *prior* to entering a private residence or a private place (defined as a place to which the public does not have lawful access and where one may reasonably expect to be safe from uninvited intrusion or surveillance, including, for example, places of worship and lawyers' offices) must inform occupants that they are being recorded in both video and audio and inquire whether these individuals request that the body-worn camera be deactivated;
  - b. Officers may deactivate their body-worn cameras before the conclusion of an incident for the purpose of protecting law enforcement strategies, provided that:
    - i. the officers are not interacting with members of the public or are in the vicinity of members of the public while the body-worn camera is deactivated.
    - ii. the body-worn camera is reactivated at the earliest opportunity and prior to any interaction with a member of the public; and
    - iii. the reason for the deactivation is recorded in accordance with a designated process.
  - c. Body-worn cameras shall not be activated in places or circumstances where recording is prohibited by law, except under exigent conditions or with lawful authority.

#### 4. **Controls**

- 4.1. If an officer has not recorded in full or in part an interaction with a member of the public, the officer shall document the specific reason that a recording was not made in part or in full using a designated process.

- 4.2. Officers are required to receive relevant training for the use of a body-worn camera along with the associated systems before being issued a body-worn camera, and subsequent ongoing training requirements, so as to ensure that officers are able to comply in full with this policy.

## **5. Transparency**

- 5.1. Up-to-date information shall be posted on the Township public website concerning the collection of body-worn camera recordings, including:
  - a. a current copy of the Township's Body-Worn Camera Policy;
  - b. how individuals can complain about use or lack of use of body-worn cameras;
  - c. what information is being collected;
  - d. the length of applicable retention periods;
  - e. how individuals can make requests for viewing or releasing to the public such recordings; and
  - f. information about how to appeal to the Information and Privacy Commissioner of Ontario where a request is denied in whole or in part.

## **6. Secure Retention and Disposal of Recordings**

- 6.1. In consultation with the Information and Privacy Commissioner of Ontario, and in accordance with all applicable legislation, recordings from body-worn cameras, including any meta-data produced by the body-worn cameras or the technology supporting the Township's body-worn cameras, will be:
  - a. Stored on a secure Canadian storage server in accordance with all applicable provincial and federal legislation and security best practices, so as to prevent any editing, tampering and unauthorized access to recordings and meta-data;
  - b. Encrypted within the camera, during transit to the storage server, and while in storage; and
  - c. Destroyed at the end of their retention period in a secure manner which prevents recovery and unauthorized access to the recordings and metadata;
- 6.2. In accordance with all applicable legislation, the minimum retention period for recordings from body-worn cameras shall be sixty (60) days.
  - a. The recordings of evidence captured during an investigation shall be retained for a minimum of one (1) year after the last event the evidence was used or disclosed.
  - b. The retention of non-evidentiary recordings shall be at least sixty (60) days.
- 6.3. In case of a potential or actual access breach of the Township's recording and meta-data storage services, the Township shall make a public post on the Township's website and social media in order to notify the public and impacted individuals of the potential breach.
- 6.4. The Township shall store all data on locally operated storage services, with the ability to back up such data on off-site cloud storage platforms hosted within Canada.

- 6.5. The Township shall exercise all due diligence to ensure that all data is protected and backed up accordingly on a daily or weekly basis. The Township and its employees shall not be held responsible for any data loss which occurs due to circumstances that are beyond the control of the Township. These circumstances may include but are not limited to loss of data due to:
  - a. data breaches from external parties;
  - b. a storage device or server malfunction;
  - c. a power surge;
  - d. theft of storage device or equipment; and
  - e. fire or natural disaster.

## **7. Use and Disclosure of Body-worn Camera Recordings**

- 7.1. Access to or viewing of production of body-worn camera records for the public will be provided only in accordance with this Policy or required by law. Without limiting the generality of the foregoing, the following are examples of circumstances where this will occur:
  - a. Anyone who has the legal authority (whether that be by statute, regulation or prior judicial authorization) shall have access to such recordings, including in relation to the prosecution of the Township By-law Enforcement cases and access requests granted under MFIPPA;
  - b. Members of the public or their representatives can make a request for access to body-worn camera footage upon the formal filing of a Freedom of Information request under MFIPPA;
  - c. All requests for a copy of body-worn camera records from a member of the public shall be directed to the Legislative Services department.
- 7.2. Anyone who obtains records of body-worn camera recordings in accordance with section 7.1 above may not further disclose these recordings to other parties without lawful authority.
- 7.3. The Township will ensure that an audit trail is created and maintained by the Township, that will identify with respect to every recording the time of access, whether a copy was provided to the requestor, and any information gathered under the Freedom of Information Act request process.
- 7.4. The Township shall ensure that additional safeguards to enhance the storage and limit access to recordings of Minors who are suspected of an offence or are witnesses to a suspected offence, in accordance with the applicable legislation.
- 7.5. A member of the public may request to view recordings from a body-worn camera if:
  - a. the member of the public making the request is:
    - i. an individual participating in the interaction captured in the recording;
    - ii. the parent or legal guardian of a minor participating in the interaction captured in the recording; or,

- iii. the next-of-kin of a deceased individual participating in the interaction captured in the recording; and;
  - b. the identity of any other member of the public who appears in the recordings can be appropriately concealed through measures such as image blurring and voice distortion.
- 7.6. The Township may refuse to release to the public recordings where such refusal is in accordance with the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), provided that the reason for the refusal is provided to the requestor in writing.
- 7.7. The Clerk/Director of Legislative Services or designate may initiate the release to the public of recordings from body-worn cameras, taking into consideration relevant factors, including what is consistent with Federal and Provincial laws and the public interest, and what is reasonable in the circumstances of the case.
- 7.8. In cases where the Township releases to the public any recordings from body-worn cameras that include images or voice recordings of members of the public, the Township shall ensure that:
  - a. the identities of all members of the public captured in the recordings are concealed through measures such as image blurring and voice distortion unless the Township is required by law to release the recordings in another form; and
  - b. the Clerk/Director of Legislative Services or designate will include with the release a justification of the public interest in releasing the recording.
- 7.9. Recordings released to the public in accordance with Sections 7.5 and 7.7 must be full and unedited with the exception of measures such as image blurring and voice distortion for the purpose of concealing the identities of members of the public.
- 7.10. The Township may use recordings from body-worn cameras for the purposes of training after the identities of all members of the public captured in the recordings are concealed through measures such as image blurring and voice distortion.

## **8. Auditing and Public Reporting**

- 8.1. The Township may conduct an audit of:
  - a. Incidents where a misconduct case is filed during the reporting and retention period;
  - b. A sample of incidents during the reporting period that was not initiated by a call for service;
  - c. Incidents wherein a body-worn camera was disabled for the purpose of protecting law enforcement strategies;
  - d. a sample of incidents whose retention period has expired during the reporting period; and

- e. The recording begins prior to the beginning of the interaction with the member of the public, and if not, that a satisfactory explanation for the failure to activate the body-worn camera before the interaction began was provided in accordance with available Township's procedures;
- 8.2. The audit may include a review of body-worn camera recordings for the above incidents to ensure that:
- a. The subject of the recording is informed at the earliest opportunity in the interaction that the interaction is being recorded for video and audio;
  - b. Any obstruction of the lens or gaps in the recording are justified and of reasonable duration;
  - c. The recording ends:
    - i. After conditions for an exception in accordance with Section 3.2 above have been established; or,
    - ii. After the interaction has ended and the Service Member has left the scene
  - d. All-access to the recordings was justified and necessary; and
  - e. The Township is in compliance with required retention and destruction practices;
- 8.3. Staff shall advise the Township Council and file with it a new copy of the Policy governing body-worn camera use whenever any changes to the Policy are made.

## 9. **Procedures for Body-Worn Camera Use**

- 9.1. Body-worn camera equipment is issued to staff appointed by the Township as Municipal Law Enforcement or By-law Enforcement Officers. Officers who are assigned body-worn camera equipment must use the equipment unless otherwise authorized by the Director of Legislative Services, in consultation with the CAO.
- 9.2. Officers shall use only body-worn cameras issued by the Township. The body-worn camera equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of the Township.
- 9.3. Body-worn camera equipment is the responsibility of individual officers and will be used with reasonable care to ensure proper functioning. Equipment malfunctions shall be brought to the attention of the Township as soon as possible so that a replacement unit may be procured.
- 9.4. Officers shall inspect and test the body-worn cameras prior to each shift in order to verify proper functioning and shall notify Township management of any problems.
- 9.5. Officers shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner body-worn camera recordings without prior written authorization and approval of the Township Clerk/Director of Legislative Services or his or her designate.

- 9.6. Officers should inform Township management or appropriate authorities of any recordings that may be of significant interest or sensitive nature.
- 9.7. If in the opinion of the Township Clerk/Director of Legislative Services or his or her designate, a matter of significant consequence is captured using a body-worn camera, the matter may be disclosed or brought forward to Council for direction.
- 9.8. Requests for deletion of portions of the recordings (e.g., in the event of a personal recording) must be submitted in writing and approved by the Township Clerk/Director of Legislative Services and in accordance with Township record retention laws and the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA). All requests and final decisions shall be kept on file.
- 9.9. Officers shall note an incident and related reports when recordings were made during the incident in question. However, body-worn camera recordings are not a replacement for written reports.

#### **10. Restrictions on Using the Body-Worn Cameras**

Body-worn cameras shall be used only in conjunction with official law enforcement duties. The body-worn cameras shall not generally be used to record:

- 10.1. Communications with other Township staff without the permission of the Chief Administrative Officer (CAO) or his or her designate;
- 10.2. When on break or otherwise engaged in personal activities; or
- 10.3. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room.

#### **11. Township Management Responsibilities**

- 11.1. The Township shall ensure that officers equipped with body-worn camera devices utilize them in accordance with policy and procedures defined herein.
- 11.2. The Township may randomly review body-worn camera recordings to ensure that the equipment is operating properly and that officers are using the devices appropriately and in accordance with policy and to identify any areas in which additional training or guidance is required.

#### **APPENDICIES**

- Appendix A – Wearing Body-Worn Camera Guidelines



<i>SUBJECT</i>	<b>Wearing Body-Worn Camera Guidelines</b>
<i>Department/Category</i>	<b>Legislative Services Department</b>
<i>Related Documents</i>	

When assigned to wear a Body-Worn Camera (BWC), officers shall only use the approved ISSUED:

- External Load Bearing Vest (LBV) carrier
- Internal Body Armour Carrier and uniform shirt
- Outerwear

When assigned a BWC, officers shall only use the approved mounting systems. The approved mounts shall be affixed to the uniform as per the prescribed training.

The following BWC mounts are the approved mounts.

Single Molle Mount



Double Molle Mount



Patch Mount



Wing Mount



## Mounting Locations

When utilizing the patch mount, the mount must be in the centre of the identifying patch, securely affixed to the loop Velcro behind the police patch. It is not permitted to place any objects or other Velcro patches under the identifying patch.

- **Note:** *It is not permitted on LBV carriers that have the identifying patch mounted on the pocket flap to tuck the flap into the pocket. The identifying patch mount must be secured to the wide portion of the loop Velcro intended for the identifying patch and not the Velcro intended to secure the flap closed.*



## ***Molle Mount***

When utilizing the single or double Molle mount, the mount must be in the centre of the Molle straps in the top two rows. It is not permitted to place any objects near the BWC that would obstruct the view of the camera.



## ***Wing Mount***

The wing mount is intended to be utilized on any outerwear and for officers that choose to wear an internal body armour carrier. When using the wing mount to mount the BWC to a uniform shirt, the wing mount shall be affixed to the centre of the shirt no lower than the bottom of the shirt pockets.



## **Outerwear**

The wing mount shall be utilized to mount the BWC on Township Approved outerwear. The mount shall be affixed to the outerwear as close to the center of the garment as possible or the centre of the breast pocket. The BWC shall not be obscured by any part of the outerwear or any other garment worn over the outerwear. The BWC shall be in plain view of the public, other Township staff and other first responders.

It is permitted to move the BWC to and from inner and outerwear mounts as weather conditions dictate.