



Employee Whistleblower Policy **DRAFT**

POL.COR.24.XX

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1. Policy Statement

The Town of The Blue Mountains (the “Town”) is committed to fostering openness, maintaining ethical standards, legitimate business practices and accountability in all its endeavours. The Town strives to ensure a fair, equitable, and respectful work environment for all employees. The Town wishes to encourage the identification and prevention of any misconduct that may affect this commitment.

2. Purpose

The purpose of the Employee Whistleblower Policy (the “Whistleblower Policy”) includes:

- a) to ensure that all employees, job applicants, volunteers, contractors and students of the Town understand that they have the right to raise concerns or file a complaint where there is an honest belief that employees are engaged in wrongdoing that may adversely affect the Town or the people and groups whom it serves;
- b) to provide employees, job applicants, volunteers, contractors and students of the Town with a system whereby they can disclose any knowledge of actual or intended misconduct which may be wasteful of tax payer's dollars, unethical, illegal or fraudulent; and,
- c) to provide employees, job applicants, volunteers, contractors and students of the Town who provide such disclosure, and are acting in good faith and on the basis of reasonable belief, with protection from any form of retaliation or threat of retaliation when they do provide such disclosure.

3. Application

The Whistleblower Policy applies to all Town Employees, including, but not limited to, regular full-time, part-time, casual, temporary/contract, students, and volunteers (collectively referred to as 'Employees' for the purposes of the Whistleblower Policy). The Whistleblower Policy shall be applied in conjunction with all collective agreements, contracts, legislative requirements, and/or standards identified by an Employee's professional affiliation.

The Whistleblower Policy does not replace procedures set out in the Employee Code of Conduct or other Town policies. Reporting procedures outlined in those policies should be adhered to, unless there are circumstances requiring the independence of the Whistleblower Policy.

The Whistleblower Policy applies to all facets of the Town's Employees' duties and responsibilities, including but not limited to duties performed:

- in the workplace;
- at offsite Town meetings, including attendance at board and committee meetings;
- during work-related travel, conferences, seminars, and training;
- at restaurants, hotels, or meeting facilities being used for business purposes;
- in Town-owned or leased facilities;
- during telephone, email, or other communications, including social media;
- while wearing a Town uniform and/or apparel with the Town logo or Town sub-branding; and
- at any Town-organized social event.

This policy does not apply to allegations of violations of the Council Code of Conduct against a member of Council. Reports about the conduct of a member of Council are to be directed to the Integrity Commissioner.

4. Definitions

Allegation: A claim or assertion that misconduct has occurred that has not yet been proven as true.

Disclosure: Making information known about misconduct through verbal or written means to the appropriate authority.

Employee: Refers to all unionized and non-unionized Town Employees, Managers, Senior Management, Supervisors, the Chief Administrative Officer (the "CAO"), Paid Per Call Firefighters, as well as contractors, students and volunteers.

Frivolous/Vexatious: A report submitted by a Whistleblower may be determined to be frivolous or vexatious at any stage if it is obvious or becomes known to the Whistleblower Program Administrator, Manager of Human Resources, CAO or external investigator, that:

- the Whistleblower submitted the report knowing the allegations were false;

- the Whistleblower submitted the report with the sole intention of causing harm to the Respondent;
- the Whistleblower has submitted multiple reports suspected to be frivolous or vexatious and has failed to respond to inquiries from the Whistleblower Program Administrator; or
- any other reason to suspect the Whistleblower is abusing the Whistleblower Policy.

Good Faith: Refers to any sincere, honest intention or belief.

Lawful Authority: Lawful authority pertains to any person directly or indirectly responsible for supervising an employee; any police or law enforcement agency with respect to an offence within its power to investigate; or any person whose duties include the enforcement of provincial or federal law within their power to investigate.

Misconduct: Refers to any illegal action or violation of Town policy in the opinion of the person reporting the wrongdoing and which may include (but is not limited to) the following:

- a violation of federal, provincial, or local laws or regulations;
- serious violations of Town policy;
- negligent, improper or gross mismanagement of Town resources;
- misuse of client files and information;
- corruption, fraud, or mismanagement of Town resources, including financial mismanagement or misuse of authority;
- unauthorized concealment, deletion, alteration or manipulation of computer files;
- substantial or specific danger to public health and safety; and
- professional misconduct or incompetence.

Misconduct for the purpose of the Whistleblower Policy also includes any retaliatory measures against any individual who is protected under Town policy.

Report: Refers to information provided by a Whistleblower to the Whistleblower Hotline and/or Manager of Human Resources regarding allegations of misconduct.

Respondent: The subject(s) of a Report made under the Whistleblower Policy who is alleged to have committed misconduct or engaged in retaliation.

Retaliation: Refers to reprimands, termination, loss of advancement opportunities, reduction in pay, harassment, threats, coercion, interference, intimidation at work, financial penalty, or any other form of reprisal directed at an Employee making a report or participating in an investigation under this Whistleblower Policy.

Substantiated: Following an appropriate investigation of the circumstances, reports made under the Whistleblower Policy will be deemed to be substantiated where sufficient evidence

exists to determine that any allegation contained in the report was proven. Reports may be substantiated in part.

Unsubstantiated: Following an appropriate investigation of the circumstances, reports made under the Whistleblower Policy will be deemed to be unsubstantiated where the evidence does not support an allegation or where insufficient evidence exists to determine if any allegation contained in the report has occurred.

Whistleblower: Refers to an Employee, job applicant, volunteer, contractor and student of the Town who, in good faith, reports misconduct or retaliation, and includes self-reporting.

Whistleblower Hotline: A confidential and secure platform, accessible by an online web form and available 24 hours a day.

Whistleblower Program Administrator: Refers to an independent third-party contracted to receive reports submitted through the Town's Whistleblower Hotline, and reports directly to the Manager of Human Resources.

5. Policy

- 5.01 (a) Where an individual acting in good faith and on the basis of reasonable belief becomes aware of actual, suspected or intended misconduct of Town Employees, or retaliation for reporting misconduct or participating in an investigation into misconduct, they have a moral and lawful duty to report such misconduct to lawful authorities within the timeframe specified in 5.03.
- (b) An individual, acting in good faith and on the basis of reasonable belief, may refuse to carry out any order or direction which is illegal, unethical, or against Town policy and which is given by an individual who has direct or indirect control over the Employee's employment. Such refusals must be reported immediately to the Manager of Human Resources and CAO.
- 5.02 Nothing in the Whistleblower Policy is meant to take precedence over an individual's duties under federal or provincial law, or common law. Any unlawful misconduct or incident which may affect public safety must be reported to the Whistleblower Hotline, Manager of Human Resources and/or proper lawful authorities immediately.
- 5.03 Individuals who believe they have witnessed an act or acts of misconduct should report the incident(s) to the Whistleblower Hotline, Manager of Human Resources, CAO and/or proper lawful authorities, preferably within thirty (30) days of the incident occurring. Any delays in reporting misconduct can make the case against the individual who has engaged in misconduct more difficult to establish.
- 5.04 Reports that contain sufficient information to conduct an investigation shall be fully investigated in a timely manner, and any Employee found to have participated in actions

constituting misconduct shall be subject to discipline, up to and including termination for cause.

- 5.05 A report that is deemed to be frivolous or vexatious or contains insufficient information to proceed to an investigation will not be investigated. Wherever possible, attempts will be made to obtain further information from the Whistleblower before this determination is made.
- 5.06 The Whistleblower Policy attempts to uphold the Town's commitment to maintaining high ethical standards and legitimate business practices, and as such abuse of the Whistleblower Policy will not be tolerated.

6. Responsibilities

- 6.01 The **Whistleblower Program Administrator** is responsible for:
- (a) reviewing reports submitted to the Whistleblower Hotline within 24 hours of the reports being submitted;
 - (b) whenever possible, communicating with the Whistleblower to obtain additional information;
 - (c) assessing the situation in order to make a determination regarding the investigation process that is appropriate to follow in the circumstances, which may include consulting with the Manager of Human Resources if doing so would not jeopardize the investigation;
 - (d) directing reports to the Manager of Human Resources to be investigated, or if the report contains sufficient information, and alleges serious misconduct by the Manager of Human Resources, the report is directed to the CAO;
 - (e) directing reports to an external investigator where there is sufficient information and serious allegations of misconduct by the CAO, or where other factors exist which require the matter be handled externally;
 - (f) informing Council, at a closed meeting, when a report is directed to an external investigator, and the results of the investigation;
 - (g) ensuring there is diligent follow-up of all reports received, and the Whistleblower is kept informed throughout the process and the result of any investigation, and has the opportunity to provide input;
 - (h) reporting directly to Council on an annual basis with non-identifying statistics regarding the utilization of the Whistleblower Hotline, the number of substantiated and unsubstantiated reports and if any frivolous or vexatious reports were received; and

- (i) reporting any matter directly to law enforcement if the report sufficiently identifies an imminent threat to the safety of any person or destruction of public property, if directing the report to the Town would cause an unnecessary delay.

6.02 **Employees** are responsible for:

- (a) acting in good faith and on the basis of reasonable belief, to report actual, suspected or potential incidents of misconduct;
- (b) co-operating with any investigation by lawful authorities into such allegations;
- (c) adhering to the confidentiality requirements in the section below, in addition to the Town's confidentiality protections outlined in the Employee Code of Conduct Policy, when making reports to external lawful authorities, except where required by law, or where an Employee's safety or public safety is imminently threatened.

6.03 **Director/Managers/Supervisors** are responsible for:

- (a) informing the CAO and Manager of Human Resources of any reports received in confidence;
- (b) co-operating with any investigations into misconduct; and
- (c) fostering a work environment which encourages open communication, ethical behaviour, adherence to laws and adherence to Town policy.

6.04 The **CAO** and **Manager of Human Resources** are responsible for:

- (a) receiving reports of misconduct, alleged misconduct or anticipated misconduct directly from staff and where it is determined by the Whistleblower Program Administrator that the report can be appropriately investigated by the Town;
- (b) assessing the situation in order to make a determination of the investigation process to be followed;
- (c) determining whether external authorities should be notified;
- (d) leading the internal investigation process;
- (e) ensuring the anonymity of the Whistleblower, when required, by taking all available precautions to avoid inadvertent identification of the Whistleblower;
- (f) ensuring all persons accused or suspected of misconduct will be treated fairly and provided the opportunity to respond to allegations of misconduct at an appropriate time, so as to not jeopardize an investigation;
- (g) obtaining additional information from the Whistleblower and keeping the Whistleblower updated on the process through the Whistleblower Program Administrator;
- (h) implementing actions to resolve the issue and ensuring any procedural or policy changes that may be necessary in order to prevent a recurrence;

- (i) developing and preparing, in consultation with Council when appropriate, a communications strategy for internal and external use regarding the misconduct and/or investigation; and
- (j) providing any information or follow-up reports as required by executive management, external authorities or agencies.

In carrying out these responsibilities, the CAO and Manager of Human Resources in their sole discretion, may involve legal counsel and/or independent auditor representatives throughout the process.

7. Procedure

7.01 An Employee, or other stakeholder acting in good faith and on the basis of reasonable belief, who has knowledge or concern that misconduct has occurred or will occur, must report the information:

- (a) In accordance with established Town policies regarding Employee conduct, unless the Whistleblower believes that the circumstance requires the independence of the Whistleblower Policy; or
- (b) to the Whistleblower Hotline within the timeframe set out in 5.03, and should include:
 - (i) the nature of the misconduct;
 - (ii) the name(s) of the individual(s) alleged to have committed the misconduct, and any witnesses (if any);
 - (iii) the date, time, and location of the misconduct; and
 - (iv) any other pertinent information including:
 - What happened and where?
 - What specific aspect(s) of any policy that was breached?
 - Additional evidence or documentation to assist in reviewing the allegation, such as emails, letters or documents.
 - Whether you have brought forward the issue(s) before. If so, when and to whom?

The Whistleblower and Respondent may also provide any supporting documentation to aid the Whistleblower Program Administrator.

Confidentiality

- 7.02 Every reasonable effort will be made to ensure that any and all information collected under the Whistleblower Policy or through the investigative process is held in strict confidence by anyone involved in the reporting or investigation procedures, except where disclosure is required to prevent imminent harm to any person or destruction of public property, or as required by law.
- 7.03 A Whistleblower can choose whether or not they wish to remain anonymous. The following provisions apply to situations when the Whistleblower wishes to remain anonymous:
- (a) The identity of the Whistleblower will not be disclosed to anyone, including the Manager of Human Resources or CAO, without the Whistleblower's explicit consent;
 - (b) If there is insufficient information provided in the report, and the Whistleblower chooses to remain anonymous and not provide contact information, the report may need to be classified as unsubstantiated.
 - (c) If it is determined by the Whistleblower Program Administrator, Manager of Human Resources or CAO that a report cannot be acted upon due to the anonymity of the Whistleblower, the Whistleblower Program Administrator will communicate this to the Whistleblower;
 - (d) At any point in time throughout this process, the Whistleblower can decide to waive anonymity, and maintain their protections outlined in provision 8.01;
 - (e) The Whistleblower Program Administrator, Manager of Human Resources and CAO will take all available precautions to ensure the ongoing protection of the identity of the Whistleblower, however, situations may arise where, due to the nature of the report, the identity of the Whistleblower becomes known or suspected. In these situations, all information relating to the report remains strictly confidential and the Whistleblower has protections outlined in section 8.01 of the policy;
 - (f) If it is determined that multiple frivolous or vexatious reports were submitted to the Whistleblower Hotline by the same Internet Protocol (IP) address, the Manager of Human Resources or CAO may initiate an investigation as outlined at 7.16, and the identity of the Whistleblower may be disclosed to the Town.
- 7.04 The following provisions apply to situations when the Whistleblower explicitly waives anonymity at any stage throughout the process:
- (a) The identity of the Whistleblower, records or information relating to the workplace wrongdoing, and any details of the alleged misconduct or investigation shall be held in strict confidence by those to whom or through

whom the misconduct is reported, and all Employees involved in the investigation.

- 7.05 Any Employee who breaches the confidentiality requirements contained in the Whistleblower Policy shall be subject to discipline up to and including termination for cause.

Investigation

- 7.06 The Town seeks to resolve allegations of misconduct in the workplace as expediently as possible. Investigations shall be conducted and the appropriate actions taken within a reasonable period of time following the filing of a report. Reports of misconduct which are not deemed frivolous or vexatious, shall be fully investigated, and any Employee found to have participated in actions of misconduct or retaliation may be subject to disciplinary action, up to and including termination of employment.
- 7.07 If a report is directed to the Manager of Human Resources, in accordance with 6.01 (d) or 6.04 (a), it is at the discretion of the Manager of Human Resources to conduct an investigation appropriate in the circumstances either by internal parties or external parties.
- (a) Where the results of the investigation substantiate reasonable grounds that fraud or other criminal activity may have occurred, the Manager of Human Resources and CAO will determine the need to refer the matter to local law enforcement.
- 7.08 If a report is directed to the CAO, in accordance with 6.01 (d) or 6.04 (a), it is at the discretion of the CAO to conduct an investigation appropriate in the circumstances either by internal parties or external parties.
- (a) Where the results of the investigation substantiate reasonable grounds that fraud or other criminal activity may have occurred, the CAO will determine the need to refer the matter to local law enforcement.
- 7.09 When an investigation is conducted under 7.07 or 7.08, the Manager of Human Resources or CAO will keep the Whistleblower Program Administrator up to date on the progress, and results of the investigation, so that the Whistleblower Program Administrator can keep the Whistleblower informed.
- 7.10 If the Whistleblower Program Administrator determines that a report cannot be appropriately investigated by either the Manager of Human Resources or CAO, in accordance with 6.01 (e), it is at the discretion of the Whistleblower Program Administrator to refer the investigation to an external investigator from a list of independent and impartial providers supplied by the Manager of Human Resources.
- (a) The Whistleblower Program Administrator may consult with Council to conduct the inquiries and investigation in a closed meeting, if necessary;

- (b) Where the results of the investigation substantiate reasonable grounds that fraud or other criminal activity may have occurred, Council will determine the need to refer the matter to local law enforcement.
- 7.11 At any point in time during the investigation process, the Manager of Human Resources, CAO or Council may implement temporary measures to ensure the integrity of the investigation, the safety of the workplace or protection of public property, these measures may include the suspension of an Employee either with or without pay.
- 7.12 Employees and independent contractors are required to co-operate with the investigation of incidents under this policy. This includes, but is not limited to participating in interviews with the investigator and providing any relevant documentation that may be in their possession. If necessary, Employees and independent contractors shall be granted paid time off to do so.
- 7.13 Following the investigation, the Whistleblower Program Administrator will communicate the results of the investigation with the Whistleblower. The investigation will be deemed concluded and the results will be communicated to the Respondent(s) of the investigation, along with any corrective action that has been taken or that will be taken as a result of the investigation.
 - (a) If the report made by the Whistleblower was a complaint of any form of workplace harassment, the Whistleblower Program Administrator will also communicate to the Whistleblower any corrective action that has been taken or that will be taken as a result of the investigation.
- 7.14 If the Whistleblower Program Administrator, Manager of Human Resources or CAO suspect the report to be frivolous or vexatious, this will be communicated to the Whistleblower and the Whistleblower will be given an opportunity to respond. If the Whistleblower does not respond within 7 days, the report is closed and coded as frivolous or vexatious for reporting purposes.
- 7.15 If an individual abuses the Whistleblower Policy by submitting repeated reports deemed to be frivolous or vexatious, the Whistleblower Program Administrator will refer the matter to the Manager of Human Resources or CAO for further investigation. In this case, the identity of the Whistleblower may be obtained by Town legal counsel, and the Employee may be subject to disciplinary measures up to and including termination for cause.
- 7.16 If a report is made that alleges a serious threat to the safety of any person or destruction of public property, and it is suspected that the report was made with the intent to mislead the Town to investigate, the Town may refer the matter to local law enforcement. In this case, the identity of the Whistleblower may be obtained by law enforcement.

8. Whistleblower Protections

- 8.01 This policy encourages Employees, job applicants, volunteers, contractors and students to freely express their concerns regarding any alleged wrongdoing. A Whistleblower shall not be subject to discipline, termination, demotion, or any form of retaliation, including but not limited to, intimidation, harassment, financial penalty or other threats by reason that:
- (a) the Whistleblower, acting in good faith and on the basis of reasonable belief, reports actual, suspected or intended misconduct as outlined in paragraph 5.01; or
 - (b) the Whistleblower, acting in good faith and on the basis of reasonable belief, refuses to carry out an order or direction which is illegal, unethical, or against corporate policy and reports such refusals in accordance with paragraph 5.01; or
 - (c) the Whistleblower cooperates with, or provides information to, or testifies in any proceeding against a member of the Town regarding situations outlined in paragraph 5.01.
- 8.02 Anyone who attempts to engage in any retaliation against a Whistleblower following a disclosure made under this policy will be subject to disciplinary action, up to and including termination of employment.

9. REPORTING

- 9.01 The Manager of Human Resources shall submit an annual report to Council on investigations initiated under this policy.
- 9.02 The Whistleblower Program Administrator shall submit an annual statistical report to Council on reports initiated under this policy.

10. Review Cycle

- 10.01 This Policy will be reviewed once per term of Council or as required based on revisions to corporate practices or governing legislation.

11. References and Related Policies

- POL.COR.07.05 Purchasing of Goods and Services
- POL.COR.12.11 Corporate Media Relations
- POL.COR.12.13 Information Technology Acceptable Use
- POL.COR.13.23 Corporate Vehicle
- POL.COR.13.24 Progressive Discipline
- POL.COR.18.05 Travel, Business, Mileage Expense
- POL.COR.18.10 Social Media
- POL.COR.22.01 Records and Information Management

- POL.COR.22.02 Hiring of Employees
- POL.HS.06.01 Individual Responsibilities
- POL.HS.19.03 Fit for Duty
- POL.HS.22.07 Respectful Public Interactions
- POL.COR.22.08 Frivolous, Vexatious or Unreasonable Complaints
- POL.COR.24.02 Respectful Workplace
- POL.COR.24.03 Workplace Violence
- POL.COR.24.05 Accountability and Transparency of Town Actions to the Public
- POL.COR.24.XX Employee Code of Conduct
- POL.COR.24.XX Employee Code of Conduct Complaint and Investigation Procedure
- Municipal Act, 2001
- Municipal Conflict of Interest Act
- Municipal Elections Act
- Municipal Freedom of Information and Protection of Privacy Act
- Occupational Health & Safety Act
- Ontario Employment Standards Act
- Ontario Human Rights Code