

**THE CORPORATION OF THE
TOWNSHIP OF EDWARDSBURGH CARDINAL**

BY-LAW NO. 2024-54

“A BY-LAW TO ADOPT A BODY-WORN CAMERA POLICY”

WHEREAS the Municipal Act 2001, SO 2001, Chapter 25, Section 8(1) states that the powers of a municipality shall be interpreted broadly so as to confer broad authority on municipalities to govern their affairs as they consider appropriate and to enhance their ability to respond to municipal issues; and

WHEREAS the Municipal Act 2001, SO 2001, Chapter 25, Section 8(2) states that in the event of ambiguity, the ambiguity shall be resolved so as to include, rather than exclude, municipal powers that existed before the Municipal Act, 2001 came into force; and

WHEREAS the Municipal Act 2001, SO 2001, Chapter 25, Section 9 gives the municipality the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this Act; and

WHEREAS the Municipal Act 2001, SO 2001, Chapter 25, Section 11(2) provides that a lower-tier municipality may pass bylaws respecting accountability and transparency of the municipality; and

WHEREAS the Municipal Act 2001, SO 2001, Chapter 25, Section 11(2) provides that a lower-tier municipality may pass bylaws respecting the health, safety and well-being of persons; and

WHEREAS the Municipal Act 2001, SO 2001, Chapter 25, Section 11(2) provides that a lower-tier municipality may pass bylaws respecting the protection of persons and property, including consumer protection; and

WHEREAS the Council of the Corporation of the Township of Edwardsburgh Cardinal deems it advisable to adopt a body-worn camera policy;

NOW THEREFORE the Council of the Corporation of the Township of Edwardsburgh Cardinal enacts as follows:

1. DEFINITIONS

The following definitions shall apply for the purposes of this bylaw:

“Activation” – means any process which turns on a body worn camera to record audio and/or video data.

“BWC” – shall mean a Body Worn Camera.

“Body Worn Camera” – means a forward-facing camera unit and supporting hardware worn by an Officer and mounted on the front upper torso, in plain view. The BWC is a recording device intended to capture footage during the execution of an Officer’s duties during their shift.

“Call for Service” – means an incident and/or location attended by an Officer in response to a call for assistance/service or request for service, from the public which involved an Investigative Contact.

“Consent” –means permission from a property owner(s) or occupant(s) of a private place who has the authority and capacity to consent, gives consent voluntarily, knowing the nature of the Officer’s conduct, knowing that they can refuse consent at any time, and who is aware of the potential legal consequences of giving that consent.

“Deactivation” – refers to turning off the video and/or audio recording on the BWC.

“Exigent Circumstances” – means circumstances where there are reasonable grounds to suspect there is an imminent threat/danger of bodily harm or death to any person or property.

“Investigative Contact” – means any in-person contact between an Officer and a member of the public where the contact is for the purpose of an investigation in relation to the enforcement of any and all bylaws, procedures and/or policies enacted by the Township of Edwardsburgh Cardinal in force at the time.

“Manager” – means the Clerk/Manager of Bylaw Enforcement or designate employed by the Corporation of the Township of Edwardsburgh Cardinal.

“MFIPPA” – means the Municipal Freedom of Information and Protection of Privacy Act, RSO 1990, CHAPTER M. 56, as amended from time to time

“Officer” – means the Bylaw Enforcement Officer for the Township of Edwardsburgh Cardinal.

“Overt” – means shown openly, plainly, or readily apparent, not secret or hidden.

“Person” – means any human being, association, firm, corporation or partnership, agent or trustee together with any heirs, executors, successors, assigns or other legal representative of a Person.

“Private Place” – means a place where a Person enjoys a reasonable expectation of privacy and may reasonably be expected to be safe from uninvited intrusion or surveillance but does not include a place to which the public has lawful access. Private Places including, but are not limited to, inside a dwelling, a place of worship, a lawyer’s office and healthcare settings.

“Redaction” – refers to the removal or obscuration of privileged, sensitive or irrelevant information prior to the disclosure or release of a copy of a BWC recording.

“Township” – means the Corporation of the Township of Edwardsburgh Cardinal.

2. GENERAL DESCRIPTION

- 2.1 The use of body worn cameras (BWC) is an effective tool that regulatory and law enforcement agencies use to demonstrate commitment to transparency, enhanced safety for officers and for the public, accountability, increased public trust, and protection of its members from unjustified complaints of misconduct. The Township’s Bylaw Enforcement is committed to establishing a BWC policy that reinforces its responsibility for protecting the public and promoting Officer safety.
- 2.2 The BWC is a small recording device with the singular purpose of recording audio/visual records, specifically designed to be mounted on a Person.

3. PURPOSE

- 3.1 The purpose of this policy is to provide rules and guidelines for the use of BWCs in the Township of Edwardsburgh Cardinal along including the collection, management, storage, and retrieval of digital media recorded using the BWC. This policy authorizes Officers to deploy and use BWCs in a manner that prioritizes the public interest by:
 - 3.1.1 Improving the transparency of the Township in relation to potential allegations of discreditable conduct, improper conduct or other types of misconduct by staff;

- 3.1.2 Ensuring the accountability of the Township and its staff through internal and public oversight systems;
- 3.1.3 Protecting individuals' right to privacy by limiting access to recordings from BWCs to the greatest extent possible;
- 3.1.4 Ensuring there is a process for the public to request access to personal information pertaining to them which is collected by BWCs;
- 3.1.5 Enhancing public trust during all enforcement processes;
- 3.1.6 Enhancing public and Officer safety;
- 3.1.7 Providing improved evidence for investigative, judicial and oversight purposes;
- 3.1.8 Ensuring a timely and fair response to misconduct allegations against municipal staff in a manner that enhances public and staff confidence in the Township's complaint and enforcement processes;
- 3.1.9 Providing information to enhance the effectiveness of the Township's procedures and training.

4. GENERAL POLICY AND PROCEDURES

- 4.1 Officers shall activate the BWCs when such use is appropriate to the performance of their official duties, where the recordings are consistent with this policy and other applicable law.
- 4.1 This policy is designed to:
 - 4.1.1 Implement recommendations made the Office of the Privacy Commissioner of Canada and the Information and Privacy Commissioner of Ontario and to ensure that new recommendations and best practices continue to be monitored and implemented as they are identified by the relevant Provincial and Federal authorities.
 - 4.1.2 Specifically identify the legislative authority for the collection of personal information that will be captured by BWCs and ensure that any such collection aligns with relevant legislation, including any legislative provisions addressing data, information or record storage, access, use and disclosure.
 - 4.1.3 Ensure that all use of the BWCs are consistent with the Ontario Human Rights Code, RSO 1990, c. H.19

5 OBJECTIVES OF BWC USE

- 5.1 The BWC is an overt recording device to assist Officers in the execution of their duties. BWCs are intended to capture specific interactions with the public and are not intended for full-shift recordings. Any personal-use recording is prohibited. The Township will use BWCs to accomplish several objectives, as follows:
 - 5.1.1 BWCs 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.
 - 5.1.2 Audio and video recordings also enhance the Township's ability to review enforcement proceedings, Officer interaction with the members of the public, the gathering of evidence for investigative

and prosecutorial purposes, and to provide additional information for Officer training.

- 5.1.3 BWCs may also be useful in documenting infractions, violations or other events that include the confiscation, removal of equipment, personal items and vehicles from the Township or private property.

6 USE OF BWCs

- 6.1 Officers equipped with a BWC shall activate their BWC as soon as reasonable possible, prior to arriving at a call for service and all interactions with the public that are undertaken in whole or in part to further a valid law enforcement purpose. Interactions with the public include statements that would normally be taken in the field including utterances and spontaneous statements. Officers are not required to activate their BWC immediately if there is a threat to the life or safety of the Officer or a member of the public making it impossible, impractical or dangerous to activate the BWC.
- 6.2 Officers can deactivate their BWC once the interaction with the Person is complete.
- 6.3 Officers shall not intentionally prevent a BWC from capturing video or audio during an interaction with a member of the public.
- 6.4 Notwithstanding sections 6.2 and 6.3 of this policy, an Officer may cover the lens of a BWC to protect the dignity of an individual during situations of a sensitive nature. Situations of a sensitive nature may include nudity, medical episodes, medical treatment, and extreme emotional distress. In these cases, an Officer shall take steps to protect the dignity of the individual while ensuring that they are not in a situation where they might be encountering an element of danger while the lens is covered. Officers must always be aware of the impact that recording may have on the member of the public whom they are recording.
- 6.5 Notwithstanding sections 6.2 and 6.3 of this policy, an Officer may deactivate a BWC before the conclusion of an incident for the purpose of protecting bylaw enforcement strategies, provided that:
 - 6.5.1 The officers are not interacting with member(s) of the public or are in the vicinity of member(s) of the public while the BWC is deactivated.
 - 6.5.2 The BWC is reactivated at the earliest opportunity and prior to any interaction with a member of the public.
 - 6.5.3 The reason for the deactivation is recorded in the officer's duty notebook.

7 RESTRICTIONS ON THE USE OF BWC

- 7.1 BWCs shall be used only in conjunction with official bylaw enforcement duties. The BWCs shall not generally be used to record:
 - 7.1.1 Communications with other Township staff without the permission of the Manager of designate.
 - 7.1.2 When on break, when driving or otherwise engaged in personal activities.
 - 7.1.3 In any location where individuals have a reasonable expectation of privacy, such as the restroom.
 - 7.1.4 Discussions relating to investigative tactics or personnel safety, health, and wellness.
 - 7.1.5 Situations that reveal investigative techniques and procedures.
 - 7.1.6 Administrative duties.

- 7.1.7 Interactions which could potentially identify a confidential source of information.
- 7.1.8 To disseminate BWC images to any person or entity unless expressly authorized by law.
- 7.1.9 In a covert capacity.
- 7.2 BWC's shall not be activated in a Private Place, except under exigent circumstances or with lawful authority. These locations include, but are not limited to, court rooms, places of worship, hospital or other recognized healthcare facilities, and places protected by legal privilege (law officers and media facilities).
- 7.3 No officer shall use a BWC to record communications that they are not party to.

8 NOTICE OF RECORDING

- 8.1 Officers shall, whenever possible, advise members of the public that they are being recorded at the earliest opportunity during an interaction.
- 8.2 Officers shall attempt wherever possible to ensure that a notice of recording to the public is itself recorded by the BWC.
- 8.3 Recording within a Private Place is dependent on the lawful authority upon which an Officer's attendance at the location is based (For example, consent of the owner/occupant, exigent circumstances or pursuant to a search warrant).
- 8.4 Officers are required to provide the owner/occupant with an opportunity to refuse or consent to being recorded. When entering a Private Place with consent, the Officer shall inform the owner/occupant of the intended use of a BWC.

9 RECORDING WITH THE CONSENT OF THE OWNER/OCCUPANT

- 9.1 Subject to this policy, an Officer shall obtain the consent of the owner/occupant of a Private Place before recording in a Private Place. The Officer shall advise the owner/occupant that he/she is wearing a BWC, state the purpose of using a BWC, that the owner/occupant is entitled to refuse to consent to the use of a BWC in a Private Place and that consent may be withdrawn at any time during the interaction in the Private Place. If consent for recording is revoked by the owner/occupant, the officer shall deactivate the BWC.

10 RECORDING IN EXIGENT CIRCUMSTANCES OR WHILE EXECUTING A SEARCH WARRANT & OBJECTIONS TO RECORDING

- 10.1 Officers may encounter situations where individuals object to being audio and/or video recorded. If the objection occurs while in a public place, officers shall continue to record in accordance with this policy.
- 10.2 If the objection occurs while in a Private Place, except where the attendance at the location is based on exigent circumstances, pursuant to a search warrant or otherwise in accordance with law, Officers shall continue to record in accordance with this policy.

11 PROCESS FOR ACTIVATION/DEACTIVATION OF BWC

- 11.1 Where reasonably possible, an Officer activating or deactivating their BWC should record a brief audible statement on the recording device indicating the reason why the BWC is being activated or deactivated. 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 in both their duty notebook and, where applicable, the service request/work order file.

12 TRAINING

- 12.1 Officers are required to receive training for the use of a BWC before being issued a BWC to ensure compliance with this policy.

13 TRANSPARENCY

- 13.1 Up-to-date information shall be posted on the Township website concerning the collection of BWC recordings including:

- 13.1.1 A copy of this policy.
- 13.1.2 How an individual may submit a complaint/concern about the use/lack of use of BWCs.
- 13.1.3 What information is collected.
- 13.1.4 Record retention periods.
- 13.1.5 How individuals can make requests to view recordings generated by BWCs.
- 13.1.6 Information about how to appeal to the IPC where a request is denied in whole or in part.

14 SECURE RETENTION AND DISPOSAL OF RECORDINGS

- 14.1 In accordance with applicable legislation, recordings from BWCs, including meta-data produced by the BWCs or technology supporting the BWC will be:
 - 14.1.1 Stored on a secure Canadian storage server to prevent any editing, tampering and unauthorized access to recordings and meta-data.
 - 14.1.2 Encrypted within the camera, during transit to the storage server, and while in storage.
 - 14.1.3 Destroyed at the end of their retention period in a secure manner which prevents recovery and unauthorized access to the recordings and meta-data.
- 14.2 All BWC recordings will be categorized within the record keeping platform to ensure they are subject to the following retention periods:
 - 14.2.1 Non-evidentiary recordings are kept for sixty (60) days and will be destroyed if there is no circumstances that triggers a longer retention period.
- 14.3 The following types of records are considered non-evidentiary:
 - 14.3.1 Calls for service that do not involve interaction with member(s) of the public for investigative or enforcement purposes; (For example: providing directions or information to a passerby would not be considered an Investigative Contact).
 - 14.3.2 Recordings that do not contain meaningful evidence (For example, routine issuance of a parking ticket where photographs are taken for evidence and a BWC recordings would be redundant).
 - 14.3.3 Recordings that are unrelated to enforcement or investigative activities.
- 14.4 Evidentiary recordings shall be kept for a minimum of two (2) years plus one (1) day and then destroyed if there is no circumstance that triggers a longer retention period. Recordings of calls of service that involve

interaction with member(s) of the public for investigative or enforcement purposes or contain evidence captured during an investigation are considered evidentiary.

- 14.5 Circumstances that may trigger a longer retention period include recordings being required for ongoing investigations, court purposes, legal proceedings, or a request for access to records pursuant to MFIPPA.
- 14.6 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 to notify the public and impacted individuals of the potential breach.
- 14.7 The Township shall store all data on locally operated storage services, with the ability to back up data on off-site cloud server storage platforms hosted within Canada.
- 14.8 The Township shall take reasonable steps to ensure that all data is protected and backed up accordingly on a daily or weekly basis based on Officer hours and availability. 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:
 - 14.8.1 Data breaches from external parties or malfunctions;
 - 14.8.2 A storage device or server malfunction;
 - 14.8.3 A power outage/surge;
 - 14.8.4 Theft of storage device or equipment;
 - 14.8.5 Fire or natural disaster.

15 USE AND DISCLOSURE OF BWC RECORDINGS

- 15.1 Access to or viewing of production of BWC 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 may occur:
 - 15.1.1 Any Person with lawful authority (by statute, regulation or prior judicial authorization) shall have access to such recordings, including in relation to the prosecution of Township Bylaw Enforcement cases;
 - 15.1.2 Members of the public or their representatives can make a request for access to BWC footage pursuant to a request for access to records under MFIPPA;
- 15.2 The Township shall ensure that additional safeguards 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.
- 15.3 The Township may refuse to release to the public recordings where such refusal is in accordance with the MFIPPA, provided that the reason for the refusal is provided to the requestor in writing.

16 EVIDENTIARY DISCLOSURE

- 16.1 The disclosure of BWC recordings and records for law enforcement or evidentiary disclosure shall only be completed by the Officer under the supervision of the Manager.

- 16.2 All BWC evidence where provincial offences proceedings have been commenced will be vetted, redacted and electronically disclosed to the POA Prosecutor, where applicable, no later than seven (7) to fourteen (14) days from the date of the first appearance.
- 16.3 Where BWC recordings containing private and sensitive information of victims, witnesses, and/or third parties must be disclosed, the Officer, under the supervision of the Manager, shall consult with the POA Prosecutor to determine whether the disclosure should be made under an undertaking or court order to explicitly prohibit the misuse of the recording.
- 16.4 The Officer, under the supervision of the Manager, shall be responsible for managing and responding to law enforcement requests for BWC recordings. Institutions or law enforcement agencies that request BWC recordings will be required to submit a request in writing and provide the following:
 - 16.4.1 Incident or occurrence associated with the investigation;
 - 16.4.2 Name and badge number of the requesting officer;
 - 16.4.3 Date, time, and location of incident;
 - 16.4.4 Brief description of incident.

17 AUDITING AND REPORTING

- 17.1 The Township may conduct an audit of:
 - 17.1.1 Incidents where a misconduct case is filed during the report and retention period.
 - 17.1.2 A sample of incidents during the reporting period that was not initiated by a call for service.
 - 17.1.3 Incidents wherein a BWC was disabled for the purpose of protecting law enforcement strategies.
 - 17.1.4 A sample of incidents whose retention period has expired during the reporting period.
 - 17.1.5 The recording begins prior to the beginning of the interaction with the member of public, and if not, that a satisfactory explanation for the failure to activate the BWC before the interaction began was provided in accordance with available Township procedures.
- 17.2 The audit may include a review of BWC recordings for the above incidents to ensure that:
 - 17.2.1 The subject of the recording is informed at the earliest opportunity that the interaction is being recorded for video and audio.
 - 17.2.2 Any obstruction of the lens or gaps in the recording are justified and of reasonable duration.
 - 17.2.3 The recording ends:
 - 17.2.3.1 After conditions for an exception have been established.
 - 17.2.3.2 After the interaction has ended and the officer has left the scene.
 - 17.2.4 All access to the recordings was justified and necessary.
 - 17.2.5 The Township is following required retention and destruction practices.

18 PROCEDURE FOR BWC USE

- 18.1 BWC equipment is issued to Officers appointed as Municipal Bylaw Enforcement Officers. Officers who are assigned BWC equipment must use the equipment unless otherwise authorized by the Manager or designate, in consultation with the CAO.

- 18.2 Officers shall use only BWCs issued by the Township. The BWC equipment and all data, images, videos, and meta-data captured, recorded, or otherwise produced by the equipment is the sole property of the Township.
- 18.3 BWC equipment is the responsibility of individual officers and will be used with reasonable care to ensure proper functioning.
- 18.4 Officers shall inspect and test the BWC prior to each shift to verify that they are fully charged and properly functioning and shall notify the Manager or designate of any problems.
- 18.5 Officers shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner BWC recordings without prior authorization and approval from the Manager or designate.
- 18.6 Officers shall inform the Manager or appropriate authorities of any recordings that may be of significant interest or sensitive nature.
- 18.7 If, in the opinion of the Manager, a matter of significant consequence is captured using a BWC, the matter may be disclosed and brought forward to the CAO for further direction.
- 18.8 Officers shall note an incident and related reports when recordings were made during the incident in question. However, BWC recordings are not a replacement for written reports or duty notebook entries.

19 VALIDITY AND SEVERABILITY

- 19.1 If any section, subsection, clause, paragraph or provision of this by-law or parts thereof are declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or beyond the powers of Municipal Council to enact, such section, subsection, clause, paragraph, provision or parts thereof shall be deemed to be severable and shall not affect the validity or enforceability of any other provisions of the bylaw as a whole or part thereof and all other sections of the by-law shall be deemed to be separate and independent there from and enacted as such.
- 19.2 Whenever any reference is made under this by-law to a statute or regulation of the Province of Ontario, such reference shall be deemed to include all subsequent amendments to such statute or regulation and all successor legislation to such legislation.
- 19.3 Nothing in this policy takes precedence over any bylaws, resolutions, plans or agreements of the Township or other legislation.

20 GENERAL

- 20.1 That this bylaw shall come into force and take effect on the date of passing.

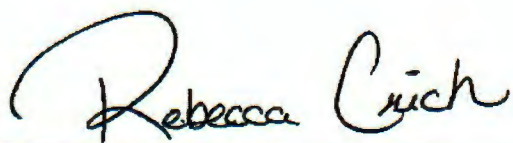
Read a first and second time in open Council this 30 day of September, 2024.

Read a third and final time, passed, signed, and sealed in open Council this 30 day of September, 2024.



Tory Deschamps (Oct 7, 2024 08:03 EDT)

Mayor



Clerk









2024-54 - Body Worn Camera Policy final

Final Audit Report

2024-10-07

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