



## Human Resource Policy 1.02.1

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**Subject:** POLICE RECORD CHECKS AND DRIVER'S ABSTRACT POLICY – STRATHMERE LODGE

**Scope:** ALL MEMBERS OF COUNTY COUNCIL/COMMITTEE OF MANAGEMENT AND ALL STRATHMERE LODGE EMPLOYEES

**Issued:** September 13, 2022

**Revised:**

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### **Purpose:**

The Corporation of the County of Middlesex (the "County") makes every reasonable effort to ensure the safety and security of persons who are under the County's care, protect County assets, and comply with applicable legislation, which efforts include ensuring that candidates considered for employment, current employees, contract employees, volunteers, and students do not present a potential risk to the safety of persons under the County's care or to the assets of the County.

Persons who have a record of offences may pose such a risk depending upon the position or volunteer function for which they are being considered or currently hold. Criminal Record Checks, Criminal Record and Judicial Matters Checks, Vulnerable Sector Checks and Driver's Abstract Checks (referred to collectively as "checks") are required for all positions at Strathmere Lodge.

### **Scope:**

This policy applies to all Strathmere Lodge non-union and unionized employees, contract employees, volunteers, students, and members of County Council/Committee of Management whose employment requires them to work with the public in vulnerable sectors, and County assets.

All employees, contract employees, volunteers, and students must immediately inform the Strathmere Lodge Administrator and Human Resources of any charges or convictions against them which may affect their ability to perform the essential duties of their job.

### **Policy:**

The County has a responsibility to protect and maintain the safety of the public and its employees and volunteers, County assets as well as comply with applicable legislation and other requirements.

These checks are requested by the County for those employees, contract employees, volunteers, and students who work or are applying to work with vulnerable persons to ensure that employees, contract employees, volunteers, and students have not engaged in harmful behaviour in the past that could put others at risk.



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It is important for the County to use these checks carefully. The results of the checks will be kept secure and as confidential. These checks are not a substitute for proper hiring practices including reference checks.

This policy will not be applied in a manner to violate any rights under the *Ontario Human Rights Code*, the *Municipal Freedom of Information and Protection Act*, any employment agreement, or collective agreement.

### **Definitions:**

**Annual Declaration Form:** A written declaration signed by employees, volunteers and members of County Council/Committee of Management declaring the status of their criminal records with respect to the prescribed offences and/or professional misconduct as set out in the *Fixing Long-Term Care Act, 2021*, S.O., c. 39 (the “*Fixing Long-Term Care Act, 2021*”) and its regulations.

**Bona Fide Occupational Requirement:** A requirement or qualification of a position, that is essential to performing the duties of a particular position. To be a Bona Fide Occupational Requirement, the position must have the following:

- a clear Police Record Check is mandated by legislation or by policy of a Provincial or Federal authority;
- the individual performing the position will be in a position of trust or authority over vulnerable persons;
- the position requires the incumbent to handle significant amounts of money in a relatively unsupervised environment;
- the position is one that involves security or safety of assets or persons; or
- a clear Police Record Check is required to fulfill some other requirement of the position

**Driver’s Abstract Check:** This check is a government-issued document with information relating to an individual’s driving history/record. It contains general information about: the driver; licence status; issue and expiry date; active Highway Traffic Act and Criminal Code of Canada convictions; suspensions and reinstatements over past 3 years; conviction dates; offence date; demerit points; and description(s) of violations.

**Police Record Checks:** A check of records held by the police where the main source of data is obtained from the Canadian Police Information Centre (CPIC). There are three types of Police Record Checks:

1. **Criminal Record Check (CRC):** This check is intended for applicants seeking employment and/or volunteering with agencies where a basic CRC is requested (e.g. retail). This check is not intended for applicants who are seeking employment and/or to volunteer with vulnerable persons. This check only contains information from the CPIC database.

2. **Criminal Record and Judicial Matters Check (CRJMC):** This check releases information relating to criminal convictions that resulted in an absolute or conditional discharge, as well as outstanding criminal charges and warrants to arrest, and certain court orders.
3. **Vulnerable Sector Check (VSC):** In addition to the information provided in the Criminal Record Check, the Vulnerable Sector Check identifies whether or not an individual has a sexual offence recorded in their name in Canada and if a pardon has been granted. This check is only used for individuals seeking employment and/or volunteer opportunities with children or vulnerable persons and where there is a Bona Fide Occupational Requirement, depending on the nature of the position.

**Vulnerable Persons:** All children who are less than 18 years of age, and/or 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 a greater risk than the general population of being harmed by persons in a position of authority or trust relative to them.

### **Procedure:**

#### **1. Pre-Condition of Employment**

- 1.1 An applicant for a position at Strathmere Lodge will be informed in the job posting and at the commencement of an interview of any check(s) required, the type of check, and the successful candidate will be provided with a letter required to accompany their submission to the applicable police department. Written consent forms must be completed by the applicant in order to be submitted to the appropriate police department.
- 1.2 As a condition of employment at Strathmere Lodge, all successful candidates will be required to obtain the appropriate check(s) at their own expense. The check(s) must be the original document. Photocopies will not be accepted. If the check(s) are unsatisfactory to the County, the individual will not be permitted to be employed with the Strathmere Lodge.
- 1.3 In addition to the above requirement, Strathmere Lodge also requires the successful candidates to provide a signed declaration disclosing the following:
  - every charge for an offence for which the person has been charged
  - every order of a judge or justice of the peace made against the person in respect of an offence, including a peace bond, probation order, prohibition order or warrant to arrest
  - every conviction for an offence or any other outcome of a charge for such an offence
  - every commencement of a proceeding that could lead to a finding of guilt of an act of misconduct
  - every finding of guilt of an act of misconduct



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- 1.4 If the applicant has recently obtained the appropriate check(s), the Strathmere Lodge Administrator will accept the documentation as long as it is the original document, and provided that it is dated no more than six (6) months prior to the applicant's start date.
  - 1.5 As per subsections 81 (4) and (5) of the *Fixing Long-Term Care Act, 2021*, no candidate shall be hired, no volunteer accepted, or any person will be permitted to be a member of Strathmere Lodge's board of directors, its board of management or committee of management, or governing structure, if they have been convicted of an offence or found guilty of an act of professional misconduct.
  - 1.6 Successful candidates who will be required to drive County-owned vehicles must possess a valid driver's licence with a class of licence that is appropriate to the vehicles being driven. Candidates will be required to show proof of a valid driver's licence that is in good standing and free from any infractions or demerit points upon commencement of employment.
  - 1.7 The checks are not the only tool used to determine suitability for a position and minimize risk; however failure to consent to a check or the failure to disclose any convictions for which a pardon has not been granted, as required to be disclosed, may result in the revocation of an offer of employment and/or the termination of employment. Further, if a candidate is unable to obtain a check prior to commencing employment, the County, at its sole discretion, may terminate the employment without notice or pay in lieu of notice should the candidate's record reveal anything, in the County's determination, that makes the candidate unsuitable for employment.

### **2. New Volunteers**

- 2.1 A current Vulnerable Sector Check must be provided before any new volunteer will be allowed to interact with vulnerable persons.
- 2.2 A successful candidate to whom a volunteer offer is made will be required to obtain the appropriate check(s) at their own expense, as a condition of volunteering. The check(s) must be the original document. Photocopies will not be accepted. If the check(s) are unsatisfactory to the County, the individual will not be permitted to be employed with the County.

### **3. Existing Employees and Volunteers**

- 3.1 On an annual basis, all existing employees and volunteers will be required to complete an Annual Declaration Form, attached at Appendix "A" to this policy, to declare the current status of their criminal record.

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- 3.2 An employee or volunteer, who, at any time, is charged with or convicted of a criminal offence, shall contact their direct Manager, Director and/or Human Resources immediately to discuss the conviction and any possible impact on their employment.
- 3.3 Prescribed offences and/or professional misconduct that must be reported include the following:
- any offence under the *Fixing Long-Term Care Act, 2021*, the *Long-Term Care Homes Act, 2007*, the *Nursing Homes Act*, the *Charitable Institutions Act* or the *Homes for the Aged and Rest Homes Act*
  - any offence referenced at section 742.1 of the Criminal Code (Canada)
  - any offence under the *Cannabis Act* (Canada), the *Controlled Drugs and Substances Act* (Canada) or the *Food and Drugs Act* (Canada)
  - any other provincial or federal offence if the offence involved:
    - improper or incompetent treatment or care of a vulnerable person that resulted in harm or a risk of harm of any kind to the vulnerable person, including but not limited to physical, emotional, psychological or financial harm,
    - abuse or neglect of a vulnerable person that resulted in harm or risk of harm of any kind to the vulnerable person, including but not limited to physical, emotional, psychological or financial harm,
    - unlawful conduct that intentionally resulted in harm or a risk of harm of any kind to a vulnerable person, including but not limited to physical, emotional, psychological or financial harm, or
    - misuse or misappropriation of a vulnerable person's money
  - An act of misconduct as a member of a health profession as defined in the *Regulated Health Professions Act, 1991*.
  - An act of misconduct as a member of a regulated profession as defined in the *Fair Access to Regulated Professions and Compulsory Trades Act, 2006*.
  - An act of misconduct under any other scheme governing a profession, occupation or commercial activity, including a scheme a person is not required to participate in in order to practice or engage in the profession, occupation or activity.
- 3.4 The Strathmere Lodge Administrator shall inform Human Resources immediately thereafter. Failure by an employee or volunteer to disclose current charges or convictions may result in disciplinary action up to and including termination.
- 3.5 The County, at its discretion, may request from an employee to provide a Police Record Check at any time, at the County's expense.



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3.6 In addition, on an annual basis, an employee or volunteer that operates a vehicle on behalf of Strathmere Lodge will have their driver's abstract checked to verify that they possess a valid driver's licence that is in good standing and free from any infractions or demerit points. Strathmere Lodge reserves the right to verify an employee's driver's licence with the Ministry of Transportation and to examine at any time the driving record of an employee whose job function requires them to drive on the business of Strathmere Lodge.

### **4. Members of County Council/Committee of Management**

4.1 Members of County Council/Committee of Management will be required to provide a check that was conducted no earlier than six (6) months prior to the date their term of office begins and no later than one month after their terms of office begins.

4.2 The County will reimburse all members of County Council/Committee of Management for the cost incurred to obtain the required check(s). The check(s) must be the original document. Photocopies will not be accepted.

4.3 On an annual basis, all members of County Council/Committee of Management will be required to complete an Annual Declaration Form, attached at Appendix "B" to this policy, to declare the current status of their criminal record.

4.4 A member of County Council/Committee of Management, who, at any time, is charged with or convicted of a prescribed offence or professional misconduct, shall contact the Chief Administrative Officer and/or Human Resources immediately to discuss the conviction and any possible impact. Prescribed offences and/or professional misconduct convictions that must be reported are listed in Article 3.3 above.

### **5. Emergency Provision**

5.1 Under normal circumstances, a candidate or volunteer shall not commence employment until a current Police Record Check has been supplied. However, if an employee is hired or volunteer is accepted during a pandemic and no Police Record Check was provided, Strathmere Lodge shall ensure that a Police Record Check is provided within three (3) months after the employee or volunteer has started.



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### 6. Privacy and Confidentiality

- 6.1 Personal information collected as a result of a check is necessary for the proper administration of a lawfully authorized activity under Sections 27 to 33 of the *Municipal Freedom of Information and Protection of Privacy Act*.
- 6.2 The County ensures the confidentiality of all information collected, and that such information will be maintained and secured by the Strathmere Lodge Administrator in accordance with Sections 278 to 281 of the *Fixing Long-Term Care Act, 2021*.



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### POLICE RECORD CHECKS AND DRIVER'S ABSTRACT POLICY APPENDIX "A"

#### **ANNUAL DECLARATION FORM – EMPLOYEES & VOLUNTEERS**

In accordance with the County's Police Record Checks and Driver's Abstract Policy, HR Policy 1.02.1, all employees, contract employees, and volunteers are required to complete an annual declaration form declaring the current status of their criminal record. Failure to disclose current charges or convictions may result in disciplinary action up to and including termination.

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Department: \_\_\_\_\_ Position: \_\_\_\_\_

I, \_\_\_\_\_, DECLARE that since my last Police Record Check collected by the County, or since the last Annual Offence Declaration Form submitted, that:

☐ I have not been convicted of a prescribed offence or misconduct set out in Subsections 255(1) and (2) under Ontario Regulation 246/22 under the *Fixing Long-Term Care Act*, that ended more than five (5) years before April 11, 2022.

OR

☐ I have been convicted of a prescribed offence or misconduct set out in Subsections 255(1) and (2) under Ontario Regulation 246/22 under the *Fixing Long-Term Care Act*, that ended more than five (5) years before April 11, 2022.

Examples of past or current prescribed offences or misconduct that must be reported include, but are not limited to:

- Any offence under the *Fixing Long-Term Care, 2021, Act*, the *Long-Term Care Homes Act, 2007*, the *Nursing Homes Act*, the *Charitable Institutions Act* or the *Homes for the Aged and Rest Homes Act*.
- Any offence referenced at section 742.1 of the *Criminal Code*.
- Any offence under the *Cannabis Act (Canada)*, the *Controlled Drugs and Substances Act (Canada)* or the *Food and Drugs Act (Canada)*.
- Any other provincial or federal offence if the offence involved,
  - improper or incompetent treatment or care of a vulnerable person that resulted in harm or a risk of harm of any kind to the vulnerable person, including but not limited to physical, emotional, psychological or financial harm,



- abuse or neglect of a vulnerable person that resulted in harm or risk of harm of any kind to the vulnerable person, including but not limited to physical, emotional, psychological or financial harm,
- unlawful conduct that intentionally resulted in harm or a risk of harm of any kind to a vulnerable person, including but not limited to physical, emotional, psychological or financial harm, or
- misuse or misappropriation of a vulnerable person's money
- An act of misconduct as a member of a health profession as defined in the Regulated Health Professions Act, 1991.
- An act of misconduct as a member of a regulated profession as defined in the Fair Access to Regulated Professions and Compulsory Trades Act, 2006.
- An act of misconduct under any other scheme governing a profession, occupation or commercial activity, including a scheme a person is not required to participate in in order to practice or engage in the profession, occupation or activity.

**All findings of guilt must be reported except:**

- a conviction for an offence that resulted in a sentence of imprisonment if the sentence was completed **more than five years** before the staff member first works, or the volunteer first volunteers;
- a conviction for an offence that did not result in a sentence of imprisonment if the conviction occurred **more than five years** before the staff member first works, or the volunteer first volunteers,
- a finding of guilt for an act of misconduct that resulted in a suspension if the suspension ended **more than five years** before the staff member first works, or the volunteer first volunteers;
- a finding of guilt for an act of misconduct that did not result in a suspension, if the finding of guilt occurred **more than five years** before the staff member first works, or the volunteer first volunteers

List of prescribed offence(s) or misconduct:

Prescribed Offence or Misconduct	Date	Court Location	Convictions

*\*please attached a separate page for additional offences or misconduct, if required.*



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OR

- ☐ I am under 18 years of age and unable to provide a Vulnerable Sector Check. I declare I have no convictions under the Criminal Code of Canada, or convictions for which a pardon has not been issued or granted under the Criminal Records Act (Canada).

I acknowledge and agree that I must promptly and without delay, advise the County of any such charges, orders or convictions of a similar nature to those described above in this declaration.

I CERTIFY that all information given in this declaration is true, correct, and complete to the best of my knowledge. I further acknowledge that I understand a failure to truthfully disclose any such information may result in, among other things, discipline up to and including the termination of my employment for just cause or the termination.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

If employee or volunteer is under the age of 18, also:

I, \_\_\_\_\_, am the parent/guardian of the employee or volunteer, and certify that all information given in this declaration relating to the employee or volunteer is true, correct, and complete to the best of my knowledge.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_



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## POLICE RECORD CHECKS AND DRIVER'S ABSTRACT POLICY

### APPENDIX "B"

#### **ANNUAL DECLARATION FORM – MEMBERS OF COUNTY COUNCIL/COMMITTEE OF MANAGEMENT**

In accordance with the County's Police Record Checks and Driver's Abstract Policy, HR Policy 1.02.1, all members of County Council/Committee of Management are required to complete an annual declaration form declaring the current status of their criminal record. Failure to disclose current charges or convictions may result in disciplinary action up to and including termination.

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Position: \_\_\_\_\_

I, \_\_\_\_\_, DECLARE that since my last Police Record Check collected by the County, or since the last Annual Offence Declaration Form submitted, that:

- ☐ I have not been convicted of a prescribed offence or misconduct set out in Subsections 255(1) and (2) under Ontario Regulation 246/22 under the *Fixing Long-Term Care Act*, that ended more than five (5) years before I became a member of County Council/Committee of Management.

OR

- ☐ I have been convicted of a prescribed offence or misconduct set out in Subsections 255(1) and (2) under Ontario Regulation 246/22 under the *Fixing Long-Term Care Act*, that ended more than five (5) years before I became a member of County Council/Committee of Management.

Prescribed offences and/or professional misconduct convictions that must be reported include:

- Any offence under the Act, the *Long-Term Care Homes Act, 2007*, the *Nursing Homes Act*, the *Charitable Institutions Act* or the *Homes for the Aged and Rest Homes Act*.
- Any offence referenced at section 742.1 of the *Criminal Code*.
- Any offence under the *Cannabis Act (Canada)*, the *Controlled Drugs and Substances Act (Canada)* or the *Food and Drugs Act (Canada)*.

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- Any other provincial or federal offence if the offence involved,
    - improper or incompetent treatment or care of a vulnerable person that resulted in harm or a risk of harm of any kind to the vulnerable person, including but not limited to physical, emotional, psychological or financial harm,
    - abuse or neglect of a vulnerable person that resulted in harm or risk of harm of any kind to the vulnerable person, including but not limited to physical, emotional, psychological or financial harm,
    - unlawful conduct that intentionally resulted in harm or a risk of harm of any kind to a vulnerable person, including but not limited to physical, emotional, psychological or financial harm, or
    - misuse or misappropriation of a vulnerable person's money
  - An act of misconduct as a member of a health profession as defined in the Regulated Health Professions Act, 1991.
  - An act of misconduct as a member of a regulated profession as defined in the Fair Access to Regulated Professions and Compulsory Trades Act, 2006.
  - An act of misconduct under any other scheme governing a profession, occupation or commercial activity, including a scheme a person is not required to participate in in order to practice or engage in the profession, occupation or activity.

**All findings of guilt must be reported except:**

- a conviction for an offence that resulted in a sentence of imprisonment if the sentence was completed **more than five years before** the person becomes a member of the licensee's board of directors, its board of management or committee of management or other governing structure;
- a conviction for an offence that did not result in a sentence of imprisonment if the conviction **occurred more than five years before** the person becomes a member of the licensee's board of directors, its board of management or committee of management or other governing structure;
- a finding of guilt for an act of misconduct that resulted in a suspension if the suspension ended **more than five years before** the person becomes a member of the licensee's board of directors, its board of management or committee of management or other governing structure;
- a finding of guilt for an act of misconduct that did not result in a suspension, if the finding of guilt **occurred more than five years before** the person becomes a member of the licensee's board of directors, its board of management or committee of management or other governing structure.



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List of prescribed offence(s) or misconduct:

Prescribed Offence or Misconduct	Date	Court Location	Convictions

*\*please attached a separate page for additional offences or misconduct, if required.*

I acknowledge and agree that I must promptly and without delay, advise the County of any such charges, orders or convictions of a similar nature to those described above in this declaration.

I CERTIFY that all information given in this declaration is true, correct, and complete to the best of my knowledge.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_