

THE CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 2019-026

A by-law to establish retention periods for records of the Town of Amherstburg, delegate the authority for establishing or amending retention periods to the Municipal Clerk and to establish a Records Retention Program Policy for the Town of Amherstburg; Repeals By-law 2016-81

WHEREAS subsection 254(1) of the *Municipal Act, 2001*, S.O., c.25, as amended, ("*Municipal Act*") provides that a municipality shall retain and preserve its records in a secure and accessible manner;

AND WHEREAS subsection 255(1) of the *Municipal Act* provides that except as otherwise provided, a record of a municipality or local board may only be destroyed in accordance with this section;

AND WHEREAS subsection 255(2) of the *Municipal Act* provides that a municipality's records may be destroyed if a retention period for the record has been established under this section and the retention period has expired or the record is a copy of the original record;

AND WHEREAS subsection 255(3) of the *Municipal Act* provides that a municipality may establish retention periods during which the records of the municipality and local boards of the municipality must be retained and preserved in accordance with section 254;

AND WHEREAS section 23.1 of the *Municipal Act*, authorizes a municipality to delegate its powers and duties to a person;

AND WHEREAS the Council of the Corporation of the Town of Amherstburg adopted By-law 2016-81 being a by-law to establish retention periods for records of the Town of Amherstburg;

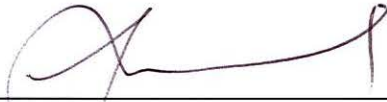
AND WHEREAS it is deemed expedient to repeal By-law 2016-81 and grant the Municipal Clerk delegated authority to establish and amend the retention schedule for the records of the Corporation of the Town of Amherstburg;

AND WHEREAS the Records Retention Program Policy will standardize the policies and practices for all records of the Corporation of the Town of Amherstburg.

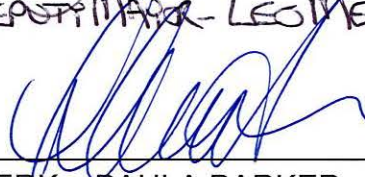
NOW THEREFORE, the Council of the Corporation of the Town of Amherstburg enacts as follows:

1. **THAT** authority for establishing and amending retention periods for the records of the Corporation of the Town of Amherstburg shall be delegated to the Municipal Clerk.
2. **THAT** the Records Retention Program Policy attached hereto as "Schedule A" be adopted and the Municipal Clerk be authorized to amend the policy as needed.
3. **THAT** By-law 2016-81 being a by-law to establish retention periods for records of the Corporation of the Town of Amherstburg be repealed.
4. This By-law shall come into force and take effect immediately upon the final passing thereof.

Read a first, second and third time and finally passed this 15th day of July, 2019.




MAYOR - ALDO DICARLO
DEPUTY MAYOR - LEO MELOCHE



CLERK - PAULA PARKER

POLICY

	Policy:	RECORDS RETENTION PROGRAM POLICY		
	Department:	Office of the CAO		
	Division:	Clerks	By-law No.:	2019-026
	Administered By:	Municipal Clerk/Risk Manager	Approval Date:	July 15, 2019
	Replaces:	N/A		
	Attachment:			

1. POLICY STATEMENT

- 1.1. The Corporation of the Town of Amherstburg is committed to upholding a standard for managing records in an organized and responsible manner. By fulfilling the requirements set out in By-law 2019-026, the Records Retention Program defines responsibilities and provides a standard for maintaining and disposing of records as required by applicable legislation.

2. PURPOSE

- 2.1. This policy ensures that standardized retention provisions apply to all records created, received, and/or maintained by employees of the Town in the course of carrying out their corporate duties regardless of the medium or format. Retention provisions are based upon the informational content of the record rather than on its medium.

3. SCOPE

- 3.1. This policy shall apply to all records of The Corporation of the Town of Amherstburg,
- 3.2. This policy shall be reviewed every 5 years from the date it becomes effective, and/or sooner at the discretion of the Chief Administrative Officer (CAO) or designate.

4. DEFINITIONS

Common definitions, acronyms, and terms are available in the Glossary located on the Town's Policies webpage.

- 4.1. **Active Record** means a record that is referred to and is stored in the user's office area.
- 4.2. **Alternate Format Records** are the original records that have been microfilmed or available electronically and deemed to be an original copy.
- 4.3. **Archive** means a repository for archival records.
 - 4.3.1. **Archival Record** means a record that has been appraised for permanent retention due to having potential historical value.
 - 4.3.2. **Archival Review** is the period of time during which a record is determined as having potential archival value.
 - 4.3.3. **Archival Value** is the evidential and informational value of records, which is determined during appraisal and justifies the records preservation.

- 4.4. **Code** is the reference number for each record series based on the Town's standardized file classification system, The Ontario Municipal Records Management System (TOMRMS).
- 4.5. **Disposition** is the final phase of a record's life cycle, meaning the destruction of a record or designation of a record as permanent or archival.
- 4.6. **Inactive Record** means a record that is no longer active and is stored in a Records Centre.
- 4.7. **Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)** is Ontario legislation that, with some limitations, provides the public with a right of access to records held by the Town and protects the privacy of personal and sensitive information.
- 4.8. **Primary Group** is a column heading in the retention table that identifies a group of functionally related records that are further broken down into records series.
- 4.9. **Record** has the meaning given to it by Section 2 of the Municipal Freedom of Information and Protection of Privacy Act, and includes any record of information however recorded.
- 4.9.1. **Records Centre** means a storage facility used to house inactive records.
- 4.9.2. **Records Department** is a column heading in the retention table that identifies departmental responsibility.
- 4.9.3. **Records Management** is the process of planning, organizing, directing, and controlling all the steps involved in a record's life cycle.
- 4.9.4. **Record Series** means a group of specifically related records organized within a primary grouping.
- 4.10. **Retention** means the length of time a record is to be retained before its final disposition. Retention descriptions are as follows:
 C = Current Year;
 P = Permanent (when a record is preserved and never destroyed);
 S = Superseded (when a record is updated or replaced with a new version);
 E = Event Triggered; (refers to a specific event or action that initiates the calculation of a retention period)
- 4.10.1. **Retention Schedule** means an approved document that authorizes the length of time records are to be retained before their final disposition.
- 4.10.2. **Retention Table** is the listing of records arranged by primary and secondary groupings, including scope notes and the retention periods of the records.
- 4.11. **Scope Notes** refers to a brief description of the types of specifically related records normally grouped together within a secondary group.
- 4.12. **The Ontario Municipal Records Management System (TOMRMS)** refers to a file classification system supported by the Association of Municipal Clerks and Treasurers of Ontario. TOMRMS is the Town's official file classification system.
- 4.13. **Transitory Record** means a record that has temporary usefulness and is only required for the completion of a routine action or until superseded. They are not required to meet statutory obligations or to sustain administrative or operational functions.
- 4.14. **Vital Record** means a record that is essential to resume or continue the operations of an organization after an emergency; those necessary to recreate the corporation's legal and financial position; and/or those necessary to preserve the rights of the corporation, its employees, customers, and ratepayers.

5. INTERPRETATIONS

- 5.1. Any reference in this Policy to any statute or any section of a statute shall, unless expressly stated, be deemed to be reference to the statute as amended, restated or re-enacted from time to time. Any references to a By-law or Town policy shall be deemed to be a reference to the most recent passed policy or By-law and any replacements thereto.

6. GENERAL CONDITIONS

6.1. Record Organization

- 6.1.1. The Town organizes records according to its approved classification system, TOMRMS.

6.2. Records Storage

- 6.2.1. Electronic records may be stored in databases, shared drives, or on TOMRMS. Records classification and retention periods in the Records Classification Retention Schedule apply to paper and electronic records.
- 6.2.2. The Town shall store records in a manner that: (i) prevents loss through misplacement, deterioration, destruction, and/or theft; (ii) prevents unauthorized or inappropriate access; and (iii) ensures continued readability.

6.3. Records and Information Ownership

- 6.3.1. All records created, received, used, or maintained by staff in the course of their duties on behalf of the Town of Amherstburg are the Town's property.
- 6.3.2. Any staff leaving their positions with the Town shall leave all records behind for their successors. This applies to both temporary and permanent departures, including transfers within the organization.
- 6.3.3. Transfer of original Town records into the possession of private organizations or individuals is prohibited except for the purposes of microfilming, imaging, duplication, format conversion, binding, conservation, or other records management and preservation procedures or where authorized by by-law, legislation or contractual agreement.
- 6.3.4. Records created or accumulated by Town Councillors acting in their political or constituency capacity are not corporate records where these records are stored and managed separately from Town records.
- 6.3.5. Records in the custody of consultants, contractors and private service providers performing work for the Town may be under the control of the Town and subject to the *Municipal Freedom of Information and Protection of Privacy Act, 1990*.
- 6.3.6. Records created by volunteers or part time workers performing work under the direction of a Town employee are corporate records subject to this policy and to the provisions of the *Municipal Freedom of Information and Protection of Privacy Act, 1990*.

6.4. Changes of Custody, Control or Ownership

- 6.4.1. When physical custody of original corporate records is transferred to another institution not covered by this policy, a protocol agreement must be in place. The

agreement must identify the records in question, define the rights retained by the Town and ensure that the records will be managed in accordance with government legislation, by-laws, regulations, policies, standards and records schedules. Protocol agreements may contain the following provisions:

- 6.4.1.1. the Town may restrict access to or the disposition of records transferred or those created after the transfer;
- 6.4.1.2. new records created or documentation added to existing records may become Town property;
- 6.4.1.3. records must be returned to the Town once they are no longer required or if the information is requested by the Town; and,
- 6.4.1.4. intellectual property rights (such as patents, copyright, etc.) must be retained by the Town.

6.5. **Information Security**

- 6.5.1. Security measures must be implemented to ensure that records are created, acquired, updated, handled, used, transmitted, transported, filed, stored and destroyed in a manner appropriate to their sensitivity. These security measures must ensure the integrity of the records, protect sensitive information and personal information from unauthorized access or disclosure and protect vital records from damage or loss.

6.6. **Record Disposal**

- 6.6.1. No record shall be destroyed unless first classified according to the current records classification system.
- 6.6.2. No record shall be destroyed unless the retention period has expired or the record is a copy of the original record.
- 6.6.3. All records shall be destroyed in a manner that preserves the confidentiality of any information contained in such records.
- 6.6.4. No official record shall be destroyed without the approval of a designated authority.
- 6.6.5. Any records pertaining to pending/actual litigation, an investigation, or a request under privacy legislation shall not be destroyed until such records are no longer required for this purpose.
- 6.6.6. A copy of a record may be destroyed at any time if the original is subject to a retention period established by the Records Retention Schedule.

6.7. **Transitory Records**

- 6.7.1. After a final record has been produced and incorporated into the regular filing system, the working materials involved may become superseded or obsolete transitory records and may be destroyed unless otherwise legislated or specified in the records retention schedule.
- 6.7.2. Working materials which are required for ongoing legal, fiscal, audit, administrative or operational purposes are not transitory records.

- 6.7.3. Transitory records that are the subject of ongoing legal proceedings or a request under *MFIPPA* must not be destroyed until after the legal proceeding or request has been completed and all possible appeals have been resolved.

6.8. **Suspension of Policy**

- 6.8.1. In the event of a notice of litigation, notice of claim, audit, or investigation for which the Town may have relevant records, the suspension of this policy shall come into effect for all records applicable to the issue until the matter is resolved.

7. **RESPONSIBILITIES**

7.1. **Council** has the authority and responsibility to:

- 7.1.1. Pass By-law 2019-026, being a by-law to update the retention periods for records of the Town of Amherstburg, delegate the authority for establishing or amending retention periods to the Municipal clerk and to establish a Records Retention Program Policy for the Town of Amherstburg.

7.2. **Senior Management Team** has the authority and responsibility to:

- 7.2.1. Provide corporate leadership and support for the records management program.
- 7.2.2. Designate staff responsible for ensuring compliance with the rules of the Record Retention Program within their departments.

7.3. The **Municipal Clerk** or designate has the authority and responsibility to:

- 7.3.1. Keep a copy of all disposal reports on a permanent basis.
- 7.3.2. Establish the retention schedule based on legislated requirements and TOMRMS.
- 7.3.3. Determine access restrictions to all records as set out under the responsibilities designated to the Clerk as head of *MFIPPA*.
- 7.3.4. Authorize the disposal of records prior to their destruction. Such authorization shall note the code, subject, title, and period of time the records relate to. This will include identification of the Retention Schedule under which the disposal was authorized. Upon authorizing the disposal of a record, the Clerk shall:
 - 7.3.4.1. Order the record(s) to be destroyed in a manner which complies with the Municipal Freedom of Information and Protection of Privacy Act, 1989; or
 - 7.3.4.2. Set aside the record(s) for long-term or permanent retention.

7.4. **Manager of IT** has the authority and responsibility to:

- 7.4.1. Provide technical support for the installation, maintenance and upgrading of records management software and related programs to ensure compliance and access within the Town's networked systems.
- 7.4.2. Ensure the security and integrity of electronic records systems.

7.5. **Division Managers** have the authority and responsibility to:

- 7.5.1. Recommend retention schedules relating to records in their division's custody and control to ensure the schedule meets the division's operational requirements.
- 7.5.2. Use the records storage and retrieval services coordinated by the Clerk's Office for storage of inactive physical records.
- 7.5.3. Ensure division staff is fully trained and carrying out their records management obligations.
- 7.5.4. As the Disposition Authority, review and sign-off on the Authorization for Destruction of Records form filled out by the Clerk or designate. If destruction sign-off is not provided, written justification must be provided to the Clerk or designate for the request to extend destruction dates.
- 7.5.5. When a business function is being transferred to another division as a result of reorganization, transfer to the division all records needed to carry out the function, or, when the division ceases to carry out a function and the function is not transferred to another division, transfer all records relating to that function to the Clerk or designate.
- 7.5.6. Inform the Clerk or designate of breaches of records management policy (ie. damage, theft, misuse, privacy complaints or unauthorized disposition of records).

7.6. **Staff** have the authority and responsibility to:

- 7.6.1. Adhere to the rules of the Record Retention Program by managing the records created, received, and controlled within their respective division (regardless of format) in good operational order and in accordance with this policy and the Records Retention Schedule.

8. REFERENCES AND RELATED DOCUMENTS

- 8.1. By-Law No. 2019-026
- 8.2. *Municipal Act, 2001*
- 8.3. *Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56*