

# THE CORPORATION OF THE MUNICIPALITY OF TEMAGAMI

BY-LAW NO. 20-1527

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**Being a by-law to authorize and provide a Schedule of Retention Periods for the records of the Municipality of Temagami and to repeal By-Law 93-303**

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**WHEREAS** Section 255 of the *Municipal Act, S.O. 2001, c. 25*, as amended, provides that a municipality may, subject to the approval of the municipal auditor, 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 thereof;

**AND WHEREAS** That Council of The Corporation of the Municipality of Temagami deems it desirable to establish a corporate records management policy and retention periods for the records of the municipality by enactment of this By-law;

**NOW THEREFORE** the Council of The Corporation of the Municipality of Temagami enacts as follows:

**1. DEFINITIONS:**

- 1.1. Auditor** means the person or firm appointed by the Council of the Municipality of Temagami from time to time to perform the annual audit of the records of the Municipality of Temagami;
- 1.2. Corporate Records Officer** shall mean the individual designated by the Municipal Clerk who is authorized to act on behalf of the Municipality and entrusted for overall governance of the records management program;
- 1.3. Classification** means the systematic identification and arrangement of records into categories according to logically structured conventions, methods, and procedural rules, represented in a classification scheme;
- 1.4. Council** shall mean the Council for the Corporation of the Municipality of Temagami.
- 1.5. Destroy** means the process of eliminating or deleting data, documents and records so that the recorded information no longer exists.
- 1.6. Disposition with respect to records** means a range of processes, associated actions, implementation, retention, destruction, loss, or transfer of custody or ownership that are documented in Disposition Notice or another instruments;
- 1.7. Electronic Record/Document** means records that exist in an electronic format only (may include e-mail or electronically created records or electronic records contained in other electronic databases);
- 1.8. Expungement** means a process to eliminate completely, to wipe out, to destroy, or to obliterate an electronic record.

- 1.9. Files** has the same meaning as “Records” and may be used inter-changeably;
- 1.10. Medium/media** means the physical material which serves as a functional unit, in or on which information or data is normally recorded, in which information or data can be retained and carried, from which information or data can be retrieved, and which is nonvolatile in nature;
- 1.11. Official Records** means recorded information in any format or medium that documents the Municipality business activities, rights, obligations or responsibilities or recorded information that was created, received, distributed or maintained by the Municipality in compliance with a legal obligation or in transaction of business;
- 1.12. Orphan Data** means data that is not machine readable because the data exists with no identifiable computer application or system that can retrieve it, or the data is machine readable but does not have sufficient content, context or structure to render it understandable;
- 1.13. Records** means any recorded information, however recorded, whether in printed form, on film, by electronic means or otherwise, including, but not limited to, correspondence, memoranda, plans, maps, drawings, graphic works, photographs, film, microfilm, microfiche, sound records, videotapes, e-mail, machine readable records, and any other documentary material regardless of physical form or characteristics, and includes Official Records” and “Transitory Records”;
- 1.14. Records Management** means the field of management responsible for the efficient and systematic control of the creation, receipt, maintenance, use and disposition of records, including processes for capturing and maintaining evidence of and information about business activities and transactions in the form of records;
- 1.15. Retention Period** means the period of time during which records must be kept by the Municipality before they may be disposed of;
- 1.16. Retention Schedule** means a control document that describes the Municipality’s records at a series level, and indicates the length of time that each series shall be retained before its final disposition. It specifies those records to be preserved for their archival or legal values, and authorizes on a continuing basis the destruction of the remaining records after the lapse of a specified retention period or the occurrence of specified actions or events. Records retention schedules serve as the legal authorization for the disposal of the Municipality’s records;
- 1.17. Municipality** means The Corporation of the Municipality of Temagami;
- 1.18. Transitory Records** means records kept solely for convenience of reference and of limited value in documenting the planning or implementation of Municipality policy or programs, such as:
- 1.18.1** copies of miscellaneous notices or memoranda concerning routine administrative matters or other minor issues;
- 1.18.2** information copies of widely distributed materials, such as minutes, agendas and newsletters, unless the information copy has been annotated to reflect significant input or for other program purposes;

- 1.18.3** preliminary drafts of letters, memoranda or reports and other informal notes which do not represent significant steps in the preparation of a final document and which do not record decisions;
- 1.18.4** duplicate copies of documents in the same medium which are retained only for convenience or future distribution;
- 1.18.5** voice-mail messages;
- 1.18.6** e-mail messages and other communications that do not relate to Municipality business;
- 1.18.7** copies of publications, such as, published reports, administration manuals, telephone directories, catalogues, pamphlets or periodicals;
- 1.18.8** duplicate stocks of obsolete publications, pamphlets or blank forms; and;
- 1.18.9** unsolicited advertising materials, including brochures, company profiles and price lists.

## **2. RETENTION SCHEDULE**

- 2.1.** The records retention schedule attached hereto as Schedule “A” forms part of this By-Law, and may be amended from time to time as necessary;
- 2.2.** The Corporate Records Officer shall administer this By-Law and shall ensure that the retention periods set out in Schedule “A” attached hereto comply with all relevant legal requirements for records retention;
- 2.3.** In determining the retention periods for any records, the Corporate Records Officer shall consider, in consultation with other Municipal employees and Municipal solicitors, where appropriate:
  - 2.3.1.** the operational nature of the records, including the period of time during which the Municipality uses the records to perform its functions;
  - 2.3.2.** the legal nature of the records, including the period of time necessary to comply with statutory or regulatory requirements or requirements imposed by agreements, permits or similar documents, or to ensure that the records are available in case of investigation or litigation;
  - 2.3.3.** the fiscal nature of the records, including the period of time necessary for audit or tax purposes; and
  - 2.3.4.** the historical nature of the records, including the long-term value of the records for documenting past events or the origins and history of the Municipality.

## **3. EMPLOYEE RESPONSIBILITIES**

- 3.1.** All Municipal employees who create, work with or manage records shall:
  - 3.1.1.** comply with the retention periods as specified in Schedule “A” attached herto;

- 3.1.2. ensure that official records in their custody or control are protected from inadvertent destruction or damage; and,
- 3.1.3. ensure that transitory records in their custody or control are destroyed when they are no longer needed for reference.

#### **4. CORPORATE RECORDS OFFICER**

##### **4.1 The Corporate Records Officer shall:**

- 4.1.1. develop and administer policies and establish and administer procedures for the Municipality's records management program;
- 4.1.2. periodically review and make recommendations with respect to this by-law, including Schedule "A" attached hereto;
- 4.1.3. ensure that official records are preserved and disposed of in accordance with the Schedule "A" attached hereto;
- 4.1.4. ensure that all disposition notices prepared pursuant to Subsection (5.1) of Section 5 of this by-law and all certificates of disposition prepared pursuant to Subsection (5.3.1.6) of Section 5 of this by-law are preserved.

#### **5. DISPOSITION OF RECORDS**

- 5.1. The Corporate Records Officer of the business unit shall provide in writing, the scheduled disposition of records, including a list of the records eligible for disposition and the schedule disposition date;
- 5.2. The Municipal department head or manager shall notify the Corporate Records Officer in writing, before the scheduled disposition date, whether any of the records included in the disposition notice need to be retained past the scheduled disposition date, and the reason why such further retention is necessary;
- 5.3. Prior to destruction of an information database or orphan data, the following documents shall be required:
  - 5.3.1. a written description containing, to the extent that such information is available, the following:
    - 5.3.1.1. the title of the system;
    - 5.3.1.2. the identification of the business unit responsible for the creation or use of the data;
    - 5.3.1.3. a brief description of the system's purpose;
    - 5.3.1.4. where possible, a contents list of the information being destroyed; or,
    - 5.3.1.5. a brief description of any sub-systems, their purpose and relationship to the main system or other sub-systems; and,
    - 5.3.1.6. the name of the technical contact person who is responsible for documenting the system.

- 5.3.2.** the written approval of the signing authority if necessary;
  - 5.3.3.** where applicable to satisfy the provisions of the *Federal Income Tax Act*, *Excise Tax Act*, *Employment Insurance Act* or Canada Pension Plan, an exemption from the Minister of National Revenue from the requirement to keep records in an electronically readable format;
  - 5.3.4.** after the destruction of an information database or orphan data, the signing authority must provide a destruction certificate to the Corporate Records Officer to provide an audit trail.
- 5.4.** Where appropriate and taking into account the principles governing the disposition of official records, the Corporate Records Officer shall re-schedule the disposition of any records listed in the disposition notice referred to in Subsection (5.1) for up to one year later than the scheduled disposition date;
- 5.5.** Re-scheduling the disposition of any records beyond a one year period requires written notice from the Municipality department head or manager to the Corporate Records Officer for each additional year;
- 5.6.** If no notice is received under Subsection (5.2) of this by-law before the scheduled disposition date, the records shall be deemed to be authorized for disposition by the Municipal department head or manager; and
- 5.7.** When official records have been disposed of pursuant to this by-law, the Corporate Records Officer shall obtain written confirmation of such disposition.

## **6. PRINCIPLES GOVERNING THE DESTRUCTION OF OFFICIAL RECORDS**

- 6.1.** The following principles shall govern the destruction of official records:
  - 6.1.1.** when there are no further business or legal reasons for retaining official records, they shall be destroyed or expunged as appropriate;
  - 6.1.2.** official records pertaining to pending or actual investigation or litigation shall not be destroyed; and
  - 6.1.3.** official Records disposed of at the end of a retention period, as well as drafts and copies of records disposed of on a regular basis, shall be destroyed in a way that preserves the confidentiality of any information they contain.
- 6.2.** Official records in the custody or control of the Municipality shall not be destroyed unless such records are older than the retention period set out in the Retention Schedule "A" attached hereto and have been identified in a disposition notice prepared pursuant to Subsection (5.1) of Section 5 this by-law; and
- 6.3.** Copies of official records may be destroyed at any time if the original records are being retained in accordance with Schedule "A" attached herto.

## **7. EFFECT**

- 7.1.** This by-law will take effect on the date it is passed.

## **8. SHORT TITLE**

**8.1.** This by-law shall be known as the “Records Retention By-law”.

**9. REPEAL**

**9.1** Upon the date of enactment of this by-law, By-law 93-303 is hereby repealed.

BE TAKEN AS READ A FIRST time on this 29<sup>th</sup> day of October, 2020.

READ A SECOND AND THIRD time and finally passed this 21 day of January, 2021.

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Mayor

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Clerk