

THE CORPORATION OF THE COUNTY OF MIDDLESEX

BY- LAW #XXXX

A BY-LAW to establish a schedule of retention periods for records of the County of Middlesex

WHEREAS:

- A. Section 254 of the *Municipal Act, 2001*, S.O. 2001, c.25, (the "*Municipal Act, 2001*"), requires municipalities to retain and preserve records in a secure and accessible manner;
- B. Section 255 of the *Municipal Act, 2001* authorizes a municipality to establish retention periods for its records;
- C. Section 255 of the *Municipal Act, 2001* states a record of a municipality or a local board 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;
- D. proper records retention and disposition policies and procedures are essential to ensure that the municipality is able to effectively manage its records, meet its legal obligations, and provide access to information as required by law;

NOW THEREFORE the Council of the Corporation of the County of Middlesex enacts as follows:

SHORT TITLE

This By-law may be cited as the "Records Retention By-law".

Section 1-Definitions

- 1.1 For the purposes of this By-law:
 - a. 'Active Record' shall mean a record that is referred to and used on a regular basis.
 - b. 'Archival Record' shall mean a record or item that has been appraised for permanent retention because of its historical, fiscal, legal (including evidential), operational, or administrative value. The long term value of the record justifies its preservation.
 - c. 'County' shall mean the Corporation of the County of Middlesex.
 - d. 'County Clerk' shall mean the Clerk of the Corporation of the County of Middlesex.
 - e. 'Corporate Records' shall mean any record created, received, deposited or held by any County employee in the course of business and used to support a County function or to conduct County business. Corporate Records does not include Councillor Constituency records.
 - f. 'Disposition' shall mean the final phase of the records life cycle, meaning the disposal of records, or the transfer of archival records to permanent storage.
 - g. 'Disposition Authority' shall mean the individual responsible for the records under the care and control of a particular service area.

- h. 'Inactive Record' shall mean a record that is referred to infrequently.
- i. 'Life Cycle' shall mean the life span of a record from its creation or receipt throughout its active and inactive stage to final disposition.
- j. 'Metadata' shall mean data that provides information about a record's content, making it easier to retrieve, use, or manage. Metadata includes, but is not limited to: means of creation of the data, purpose of the data, time and date of creation, creator or author of data.
- k. 'Record' shall mean information, however recorded or stored, whether in printed form, on film, by electronic means, or otherwise, that may include: correspondence, a memorandum, a book, a plan, a map, a drawing, a diagram, a pictorial or graphic work, a photograph, a film, a microfilm, a sound recording, a videotape, a machine readable record, any other documentary material, regardless of physical form or characteristics.
- l. 'Records Classification System' shall mean a system to promote the effective use of County information by providing a consistent standard for the description and management of corporate records and improving control and accessibility.
- m. 'Records Coordinator' shall mean an employee within each service area who acts as records management liaison and representative for the service area, administers and supports the service area's records management.
- n. 'Records Management' shall mean the process of planning, organizing, directing, and controlling all the steps involved in the life cycle of records.
- o. 'Retention Schedule' shall mean the schedule prescribing retention periods for records identified in the records classification system as set out in Schedule 'A'.
- p. 'Superseded' shall mean when a record is replaced by a more recent or updated record.
- q. 'Transitory Records' shall mean records that have temporary usefulness and are only required for the completion of a routine action, or the preparation of another record. They are not an integral part of a record and are not filed regularly with records or the records classification system. Transitory Records are not required to meet statutory obligations or to sustain administrative or operational functions. Their retention and disposition are not governed by the records classification system or retention schedules. Transitory Records include, but are not limited to:
 - i. Additional duplicate copies
 - ii. Telephone messages
 - iii. Texts
 - iv. E-mails
 - v. Working papers/drafts
 - vi. Miscellaneous notices or memoranda
 - vii. External publications
 - viii. Unsolicited advertising information
 - ix. Tapes or notes from a meeting for which the minutes or reports have been adopted or finalized

Section 2 – Objectives

- 2.1 The records classification system applies controls and standards to the creation, security, use, retention, conversion, disposition and preservation of County records. A standardized records classification system allocates sufficient resources to:
- a. manage the information life cycle to meet all legislated requirements for record keeping, including those of the *Municipal Act, 2001*, the *Municipal Freedom of Information and Protection of Privacy Act, 1990* and the *Personal Health Information Protection Act, 2004*;
 - b. manage information holdings, making them readily available for decision making and to meet information access requests, including those made under the *Municipal Freedom of Information and Protection of Privacy Act, 1990* and the *Personal Health Information Protection Act, 2004*;
 - c. protect the integrity and authenticity of records so that they may be relied upon as evidence of organizational activity and administrative decisions and thereby meet legal, evidential and accountability requirements;
 - d. ensure the identification and preservation of permanently valuable records and the destruction of records that have surpassed their retention, in a timely, secure, and environmentally sound manner;
 - e. promote organizational efficiency and economy through sound record keeping practices, including reducing storage costs; and,
 - f. establish and define accountability, responsibility and roles, as appropriate to level of involvement with records management.

Section 3 – General Provisions

- 3.1 All records created or received by an employee of the County in the course of official business are subject to County records management practices and procedures.
- 3.2 Transfer of original County records into the possession of private organizations or individuals is prohibited except for the purposes of imaging, duplication, format conversion, binding, conservation, or other records management and preservation procedures or where authorized by by-law, legislation or contractual agreement.
- 3.3 Records created or accumulated by County Councillors acting in their political or constituency capacity are not corporate records where these records are stored and managed separately from County records.
- 3.4 Records in the custody of consultants, contractors, and private service providers performing work for the County may be under the control of the County and subject to the *Municipal Freedom of Information and Protection of Privacy Act, 1990*.
- 3.5 Records created by volunteers or part time workers performing work under the direction of a County employee are corporate records subject to this by-law and to the provisions of the *Municipal Freedom of Information and Protection of Privacy Act, 1990*.
- 3.6 When physical custody of original corporate records is transferred to another institution not covered by this by-law, a protocol agreement must be in place. The agreement must identify the records in question, define the rights retained by the County 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:

- a. the County may restrict access to or the disposition of records transferred or those created after the transfer;
 - b. new records created or documentation added to existing records may become County property;
 - c. records must be returned to the County once they are no longer required or if the information is requested by the County; and,
 - d. intellectual property rights (such as patents, copyright, etc.) must be retained by the County.
- 3.7 The Middlesex County Barrister & Solicitor's Office "MCBSO", diligently adheres to the rules and regulations set forth by the Law Society of Ontario "LSO", as amended or replaced, including without limitation, the establishment of robust backup system for its electronic records of legal documents. All Middlesex County legal records will be retained for a period of (15) years, subject to exceptions established by MCBSO, to appropriately safeguard the evidentiary interests of the MCBSO's clients, Middlesex County, and its Local Boards from the maximum 15-year limitation period prescribed by the *Limitations Act* (Ontario) and *Rules of Civil Procedure* (Ontario), as amended or replaced.

Section 4 - Records Classification System

- 4.1 The Records Classification System, based on the Ontario Municipal Records Management System (TOMRMS), as amended by the County Clerk shall be the County's records classification system and retention schedule.
- 4.2 All County records will be retained and disposed of according to the retention schedule attached hereto as Schedule 'A'.

Section 5 - Transitory Records

- 5.1 Transitory records may be destroyed at any time.
- 5.2 The provisions of Schedule 'A' of this by-law shall not apply to the destruction of transitory records.
- 5.3 Where a record is destroyed upon expiry of the retention period described in Schedule 'A', any corresponding transitory record shall also be destroyed.

Section 6 - Destruction of Records

- 6.1 Destruction of records may occur at the end of a record's life cycle as described in Schedule 'A'. Destruction includes deletion, shredding, and paper recycling.
- 6.2 Records shall be destroyed using a method appropriate to their medium and to their content. Records containing confidential and/or personal information shall be destroyed through a process that achieves definitive obliteration of information.
- 6.3 Records must be destroyed promptly following the expiration of approved retention periods. Exceptions to this planned destruction process include records still required for the ongoing functions of a municipal program, records that are the subject of a request under the *Municipal Freedom of Information and Protection of Privacy Act, 1990* and records required for ongoing legal purposes.

Section 7 - Authority and Responsibility

7.1 The County Clerk will:

- a. provide leadership for records management with respect to vision, mission, policy, standards, strategic planning, training, quality assurance, and facilitate the development, maintenance and improvement of records keeping solutions, tools and systems;
- b. coordinate the corporate wide program for records management;
- c. recommend and implement policies;
- d. ensure the currency of the records retention schedule; and
- e. have delegated authority to amend the records retention schedule as required to support effective records management.

7.2 Service Area Managers will:

- a. manage records in accordance with the records classification system and records retention schedules;
- b. as the Disposition Authority, review and sign off on the destruction of records that have reached their scheduled disposition date. If destruction sign-off is not provided, the Disposition Authority shall provide written justification for the request to extend destruction dates;
- c. inform the County Clerk of breaches of records management (e.g. damage, theft, misuse, privacy complaints or unauthorized disposition of records); and,
- d. designate an employee in each service area to act as the records coordinator.

7.3 All County Employees will ensure that all the records they create or receive that are used to support a County function or to conduct County business will be maintained and preserved in accordance with this by-law.

Section 8 - Administration

8.1 This by-law shall apply to all records of the County.

8.2 By-law No. 5464, as amended, shall be repealed, in its entirety, immediately upon this by-law taking effect.

8.3 This by-law shall come into force and effect on the date of its passing by the Council of the Corporation of the County of Middlesex.

Cathy Burghardt-Jesson, Warden

Paul Shipway, County Clerk

**SCHEDULE "A"
TO BY-LAW #XXXX**

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