

THE CORPORATION OF THE TOWN OF LASALLE

BY-LAW NO. 8326

A By-law to provide for the classification, retention, and destruction of the records of the Town of LaSalle and to repeal By-Law 7738, being a By-Law to establish a new Records Retention Schedule

Whereas Section 254(1) of the Municipal Act, 2001, provides that a municipality shall retain and preserve its records in a secure and accessible manner;

And whereas Section 255(3) of the Municipal Act, 2001 provides for a municipality, subject to the approval of the municipal auditor, to establish retention periods during which its records must be retained and preserved;

And whereas Section 255(2) of the Municipal Act, 2001 provides that a municipality's records may be destroyed if a retention period for the records has been established and the retention has expired;

And Whereas By-law 7738 passed March 10, 2015 established retention periods for certain documents and records;

And whereas it is now appropriate to adopt an updated records retention classification and by-law for the Town, said classification and retention having been approved by the municipal auditor on June 10, 2019;

Now therefore the Council of the Corporation of the Town of LaSalle hereby enacts as follows:

1 DEFINITIONS

a) **Active Records**

Records which are consulted on a regular basis. These records are stored in the departmental area or at an employee workstation for convenience.

b) **Archival Records**

Records which have been appraised and deemed to have enduring historical value.

c) **Archival Review**

An evaluation of records for potential archival value conducted by Records Management.

d) **Archive**

A repository of archival records which have been appraised for permanent retention.

e) **Auditor**

Council appointed external auditors licensed under the Public Accountability Act, auditing the accounts and transactions of the Corporation of the Town of LaSalle.

f) **Classification System**

A systematic means of coding, categorizing and arranging records for use, retrieval and retention purposes.

g) **Destruction**

Refers to the permanent deletion or obliteration of records, regardless of format. Methods for physical destruction of records include shredding and

recycling. Records containing personal or sensitive information shall be destroyed in a secure manner.

h) **Disposition**

The final stage of records life cycle. Records may be destroyed, retained permanently, or archived for preservation.

i) **Expungement**

A process to eliminate completely, wipe out or obliterate an electronic record beyond reconstruction.

j) **Freedom of Information Request (FOI)**

A formal request for records in the custody of the municipality under the *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)*, made by a member of the public.

k) **Inactive Records**

A record that is no longer consulted on a regular basis, but is retained to fulfil legal, regulatory and operational requirements, or historical need.

l) **MFIPPA**

Refers to the *Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56*.

m) **Office of Primary Responsibility**

The department or division responsible for the retention, maintenance and disposition of a record.

n) **Official Record**

A record providing documentary evidence of the activities, rights, obligations and responsibilities of the Town on LaSalle. Recorded information that was created, received, distributed or maintained by the company in compliance with a legal obligation.

o) **Orphan Data**

Data which is not machine readable by any existing computer system or software. Machine readable data not having sufficient content, context or structure to render it understandable.

p) **Permanent Record**

A record with permanent retention due to its ongoing administrative, historical, fiscal, legal or operational value.

q) **Personal Information Bank**

A collection of personal information that is organized and capable of being retrieved using an individual's name or an identifying number or particular assigned to the individual.

r) **Record**

All recorded information, regardless of structure or form, created, captured or maintained by the municipality and which serves as documentary evidence of daily activities. Records are valuable information assets of the Town of LaSalle. Records may include, but are not limited to correspondence, email, memoranda, minutes, photographs, maps, plans, drawings, microforms, books, reports, etc.

s) **Records Life Cycle**

The life span of a record from creation, receipt or capture, through active, semi-active and inactive stages, to final disposition.

t) **Records Management**

The planning and systematic control of the creation, capture or receipt, maintenance, use and final disposition of records.

u) **Record Series**

A group of related documents that are filed together for retrieval and retention. This group is assigned an identifying code and title.

v) **Retention Period**

The period of time that records must be kept to fulfill operational, legal, regulatory, fiscal or other requirements before they are eligible for final disposition.

w) **Retention Schedule**

A control document defining the record series (categories) and the period of time each series must be kept. This document will be used to classify records and establishes legal authority of the destruction of records after the retention period has expired.

x) **Signing Authority**

Refers to the Department Head or designate.

y) **TOMRMS**

The Ontario Municipal Records Management System. This is a suggested retention schedule on which our retention schedule and records classification is based.

z) **Transitory Records**

Records having only temporary or limited usefulness or information that has been used in the preparation of a record. Often maintained for the completion of a routine task or in preparation of other records and are not required for operations or statutory obligations. Examples include working papers, external publications, duplicate copies, etc. For more on Transitory Records, see **Schedule 'A'**.

aa) **Vital Records**

Records essential to resumption or continuation of operations after an emergency or disaster; 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. Examples of vital records include accounts receivable / accounts payable records, contracts and agreements, By-Laws, policies and procedures, etc.

2 APPLICATION

- a) This By-Law shall apply to all records, regardless of format, under the custody and control of the Corporation of the Town of LaSalle.
- b) Data stored on the Town of LaSalle's back-up server shall not be considered a record for the purposes of records retention or requests, and is intended for use only in disaster recovery or system failure.

3 RETENTION SCHEDULE

- a) The Records Retention Schedule, attached as Schedule 'A', forms part of this By-Law.
- b) The Records Management Clerk shall administer this By-Law to ensure all retention periods set out in Schedule 'A' comply with any relevant legislation.
- c) In determining retention periods set out in Schedule 'A', the Records Management Clerk shall consider any operational, legal, fiscal, or historical needs.

4 RECORDS RETENTION AND CLASSIFICATION

- a) The Office of Primary Responsibility shall be responsible for the retention and maintenance of records.
- b) Upon eligibility for records destruction, see Sections 6 **Governance of the Destruction of Records** and Section 7 **Disposition of Records** for instruction.

- c) The Corporation shall classify retain, destroy and archive records in accordance with this By-Law and the attached Schedule 'A.'
 - i) Where records cannot be classified according to the Records Retention Schedule, the records management clerk will perform a records analysis in order to obtain information on operational needs, legislative requirements and potential historical value. The records management clerk will then provide guidance and suggest any necessary amendments to the Records Retention Schedule.

5 TRANSITORY RECORDS

This by-law shall not apply to transitory records. Transitory records may be destroyed when no longer required.

6 GOVERNANCE OF THE DESTRUCTION OF RECORDS

- a) Records shall not be destroyed unless the records satisfy the below criteria:
 - i) The record had been classified according to the Records Retention Schedule (Schedule 'A')
 - ii) The retention period has expired; or
 - iii) The record is a copy of the original record, in accordance with Schedule 'A'
 - iv) Records shall not be destroyed if pertaining to actual / potential litigation or an open request under privacy legislation
 - v) Records shall not be destroyed without the appropriate authorization
- b) Email records – Email backups are created and retained for disaster recovery purposes and shall not be used to fulfil records retention requirements.
- c) Where records are destroyed or expunged, the records are to be destroyed in a secure manner, preserving the confidentiality of any personal information contained therein.

7 DISPOSITION OF RECORDS

- a) Each department will perform destruction of records in the regular course of business.
- b) Upon eligibility for destruction, the following procedure will apply:
 - i) A **Records Destruction Form** shall be filled out
 - ii) The appropriate signing authority shall authorize destruction of records
 - iii) The destruction form shall be forwarded to records management for retention
 - iv) If there is a need to retain records and the retention period has expired, please fill out a **Records Retention Form** for appropriate authorization
- c) Where official records have been destroyed, the Records Management Clerk shall obtain confirmation of disposition.
- d) Where records are subject to archival review, please fill out a **Records Transfer Form** indicating archival review and forward to the Records Management Clerk.
- e) **Orphan Data – Electronic Systems**
 - i) Prior to the destruction of any Orphan Data, the following information is required:
 - (1) A written description of the orphan data, to the extent that such information is available, the following:
 - (a) Title of the system
 - (b) The department or division responsible for the creation or use of the orphan data
 - (c) A brief description of the system's purpose
 - (d) Where possible, a contents list of the information to be destroyed

- (e) A brief description of any sub-systems, their purpose and relationship to the main system or other sub-systems
- (f) The name of the technical contact person who is responsible for documenting the system
- (2) The written approval of the department head or designate.
- (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.
- (4) After destruction of the orphan data, documentation must be provided to the Records Management Clerk providing proof of destruction.

8 RESPONSIBILITIES

8.1 DUTIES OF THE CLERK

- a) Provide leadership and support for the Records and Information Management Program.
- b) Authorize the destruction of records in compliance with the Records Retention and Disposition Schedule.
- c) Authorize changes to the records retention schedule.
- d) Authorize new procedure supporting the Records and Information Management Program.

8.2 DUTIES OF RECORDS MANAGEMENT CLERK

- a) Administer the Records and Information Management Program, providing assistance in implementation and maintenance.
- b) Maintain and update the records retention schedule and information management policies.
- c) Develop and maintain procedures to support the Records and Information Management Program.
- d) Authorize the destruction, archiving, extended retention and transfer of records.
- e) Conduct departmental assessments and offer training, assistance and recommendations.
- f) Perform compliance audits.
- g) Establish goals and timelines for records management initiatives and projects.
- h) Provide consultation in purchase of software or filing equipment which will effect the storage, retrieval and maintenance of records and information.

8.3 DUTIES AND RESPONSIBILITIES OF DEPARTMENT HEADS

- a) Shall be responsible for the records in the care of the department.
- b) Department Heads or Signing Authorities are responsible for approving departmental records destruction requests.
- c) Will work with the Records Management Clerk to ensure policies and procedures are applied.
- d) Will assign a records liaison in each department/division.

8.4 DUTIES OF THE RECORDS LIASION

- a) Assist in the implementation of policies, procedure and recommendations at the departmental level.
- b) Participate in records management training sessions.
- c) Co-ordinate records storage space, physical and electronic, at the departmental level.
- d) Arrange for transfer or archiving of records at the departmental level.
- e) Discuss any gaps or omissions in the retention schedule, policies or procedures with the Records Management Clerk for prompt assessment, schedule amendments and changes in policy/procedure.

8.5 DUTIES OF ALL EMPLOYEES

- a) Create and maintain complete and accurate records which will serve as evidence of decisions, transactions and business activities.

- b) Comply with all records management policies, By-Laws and procedures.
- c) Comply with the file classification systems and retention periods as specified in the current Retention Schedule.
- d) Ensure records in their custody are properly classified, maintained, preserved and disposed of according to the established retention periods.
- e) Ensure that transitory records in their care are destroyed when no longer required.
- f) Ensure the security and protection of personal or confidential information of records in their care.
- g) Ensure that records in their custody are protected from inadvertent damage or destruction.
- h) Ensure that upon exit or transfer, all records in their custody are transferred to supervisor or predecessor. This includes all physical, electronic and email records.

9 DELEGATION OF AUTHORITY

- a) **THAT** authority for establishing and amending retention periods be delegated to the Municipal Clerk, subject to the approval of the Municipal Auditor of such schedules.

10 REPEAL AND ENACTMENT

- a) By-law 7738 is hereby repealed.

This by-law shall come into full force and effect upon the final passing thereof.

Read a first and second time and finally passed this 25th day of June 2019.

1st Reading – June 25, 2019

Mayor

2nd Reading – June 25, 2019

3rd Reading – June 25, 2019

Clerk