

THE CORPORATION OF THE CITY OF PETERBOROUGH

BY-LAW NUMBER 12-156

BEING A BY-LAW TO PROVIDE A SCHEDULE OF RETENTION PERIODS FOR THE RECORDS OF THE CORPORATION OF THE CITY OF PETERBOROUGH AND TO REPEAL BY-LAW 1991-55

WHEREAS Section 255 of the Municipal Act 2001, 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 must be retained, preserved and destroyed in accordance with Section 254 thereof;

AND WHEREAS the Council of The City of Peterborough deems it desirable to establish retention periods for the records of the municipality by enactment of this by-law (cited as the Records Retention By-law);

AND WHEREAS all records generated or received by staff and elected officials of the Municipality in connection with the transaction of public business are the express property of the Corporation of the City of Peterborough;

NOW THEREFORE the Council of the City of Peterborough enacts as follows:

1. DEFINITIONS

- a) "Auditor" means the person or firm appointed by the Council of The City of Peterborough from time to time to perform the annual audit of the records of The City of Peterborough.
- b) "City" means The Corporation of the City of Peterborough.
- c) "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.
- d) "Destruction" means the process of eliminating or deleting data, documents and records so that the recorded information no longer exists. NOTE: See also the definition for expungement.
- e) "Disposition" means the documented process that changes the status of a record, including retention; destruction; loss; or transfer of custody or ownership.
- f) "Expungement" means a process to eliminate completely, to wipe out, to destroy, or to obliterate a record. NOTE: See also the definition for destruction.
- g) "Files" has the same meaning as "records" and may be used interchangeably.
- h) "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.

- i) “Official records” means recorded information in any format or medium that documents the City's business activities, rights, obligations or responsibilities or recorded information that was created, received, distributed or maintained by the City's staff or elected officials in compliance with a legal obligation.
- j) “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.
- k) “Records” means information however recorded or stored, whether in printed form, on film, by electronic means or otherwise, and includes documents, financial statements, minutes, accounts, correspondence memoranda, plans, maps, drawings, photographs and films. This includes, but is not limited to: e-mail and records stored on laptops or other personal electronic devices, CDs, DVDs, and USB keys. Records created or in the custody of consultants, contractors or volunteers performing work for the City may be under the control of the City and subject to the *Municipal Freedom of Information and Protection of Privacy Act*.
- l) “Retention period” means the period of time during which records must be kept by the City before they may be disposed of.
- m) “Retention schedule” means a control document that indicates the length of time that each record 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 at the end 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 City's records.
- n) Transitory documents are those kept solely for convenience of reference and of limited value in recording the planning or implementation of City policy or programs, such as:
 - i) copies of miscellaneous notices or memoranda concerning routine administrative matters or other minor issues;
 - ii) 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;
 - iii) preliminary drafts of letters, memoranda or reports and other informal notes which do not represent significant steps in the preparation of a final record and which do not record decisions;
 - iv) duplicate copies of documents in the same medium which are retained only for convenience or future distribution;
 - v) voice-mail messages;
 - vi) e-mail messages and other communications that do not relate to City business;
 - vii) copies of publications, such as, published reports, administration manuals, telephone directories, catalogues, pamphlets or periodicals;
 - viii) duplicate stocks of obsolete publications, pamphlets or blank forms;
 - ix) unsolicited advertising materials, including brochures, company profiles and price lists.

2. RETENTION SCHEDULE

- a) The Records Retention Schedule attached hereto as Schedule “A”, forms part of this by-law.
- b) The Clerk or Designate 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.
- c) In determining the retention periods for any records, the Clerk shall consider, in consultation with other City employees where appropriate:
 - i) The operational nature of the records, including the period of time during which the City uses the records to perform its functions;
 - ii) 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;
 - iii) The fiscal nature of the records, including the period of time necessary for audit or tax purposes; and,
 - iv) The historical nature of the records, as determined by the City’s Archivist in consultation with the appropriate divisional manager.

3. RESPONSIBILITIES OF STAFF AND ELECTED OFFICIALS

All City employees, part-time and contract staff and elected officials who create, work with or manage records shall:

- a) Comply with the retention periods as specified in Schedule “A” attached hereto;
- b) Ensure that official records in their custody or control are protected from inadvertent destruction or damage; and,
- c) Ensure that transitory documents in their custody or control are destroyed when they are no longer needed for short-term reference.

Records created or accumulated by elected officials outside of Council business are not corporate records where these records are stored and managed separately from City records using non-City equipment and not handled by City staff.

4. CLERK OR DESIGNATE

The Clerk shall:

- a) Develop and administer policies and establish and administer procedures for the City’s Records Management program;
- b) Amend Schedule “A” as required, and obtain approval of the changes from the municipal auditor;
- c) Ensure that official records are preserved and disposed of in accordance with Schedule “A” attached hereto; and,

- d) Ensure that all disposition notices prepared pursuant to Subsection (a) of Section 5 of this by-law and all certificates of disposition prepared pursuant to Subsection (f) of Section 5 of this by-law are preserved.
- e) Include the current Records Retention Schedule in Council's orientation information at the beginning of each term.

5. DISPOSITION OF RECORDS

- a) The departments, in conjunction with the City Clerk's office, will identify records scheduled for disposition, and prepare a notice of disposition list. If there are any records that need to be retained beyond the disposition date, notice must be provided by the division manager to the City Clerk's office in writing and include the reasons for which further retention is requested.
- b) Prior to destruction of an information database or orphan data, the following documents are required:
 - i) a written description containing, to the extent that such information is available, the following:
 - a) the title of the system;
 - b) the identification of the business unit responsible for the creation or use of the data;
 - c) a brief description of the system's purpose;
 - d) where possible, a contents list of the information being destroyed; or
 - e) a brief description of any sub-systems, their purpose and relationship to the main system or other sub-systems; and
 - f) the name of the technical contact person who is responsible for documenting the system;
 - ii) the written approval of the manager of the division; and
 - iii) 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.
 - iv) After the destruction of an information database or orphan data, the signing authority must provide a destruction certificate to the Clerk's office to provide an audit trail.
- c) Where appropriate and taking into account the principles governing the disposition of official records, the Clerk shall re-schedule the disposition of any records listed in the notice referred to in Subsection (a) of this Section for up to one year later than the scheduled disposition date.
- d) Re-scheduling the disposition of any records beyond a one year period requires written notice from the division manager to the Clerk for each additional year.
- e) If no notice is received under Subsection (d) of Section 5 of this by-law before the scheduled disposition date, the records shall be deemed to be authorized for disposition by the division manager.

- f) When official records have been disposed of pursuant to this by-law, the Clerk shall obtain written confirmation of such disposition.
- g) Certain records identified for permanent retention based on enduring evidential, fiscal, or historical value and upon approval by the City Archivist may be transferred to the municipality's corporate archives located within the Peterborough Museum and Archives. The Archivist shall review schedule "A" changes on a regular basis and discuss these with the Clerk.

6. PRINCIPLES GOVERNING THE DESTRUCTION OF OFFICIAL RECORDS

- a) The following principles govern the destruction of official records:
 - i) When there are no further business or legal reasons for retaining official records, they shall be destroyed or expunged as appropriate;
 - ii) Official records pertaining to pending or actual investigation or litigation shall not be destroyed;
 - iii) 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.
- b) Official records in the custody or control of the City shall not be destroyed unless such records are older than the retention period set out in Schedule "A" attached hereto and have been identified in a disposition notice prepared pursuant to Subsection (a) of Section 5 of this by-law.
- c) Copies of official records may be destroyed at any time if the original records are being retained in accordance with Schedule "A" attached hereto.

7. PREVIOUS BY-LAWS RESCINDED

By-laws 1991-55, 1972-63, and 1967-11 and resolutions and parts of by-laws and resolutions inconsistent with the provisions of this by-law, are hereby repealed.

8. AUDITOR'S APPROVAL

The City Auditor's letter of approval of this by-law is attached as Schedule B.

9. EFFECTIVE DATE

This by-law shall take effect upon the day of passing.

By-law read a first, second and third time this 13th day of November, 2012.

(Sgd.) Daryl Bennett, Mayor

(Sgd.) John Kennedy, City Clerk

Approval of the Auditor:

Pursuant to the *Municipal Act, 2001*, S. O. 2001, c. 25, as amended, the undersigned Joanna Park, Collins Barrow Kawarthas LLP, Chartered Accountants – Peterborough Office, duly authorized auditors of The Corporation of the City of Peterborough, approve By-law Number 12-156 passed by the Council of The Corporation of the City of Peterborough on the 13th day of November, 2012.

Dated this _____ day of _____, 2012.

Per: _____
Joanna Park, Partner, Collins Barrow Kawarthas LLP