

The Corporation of the Municipality of Brockton



By-Law 2023-063

Being a By-Law to Adopt a Records Retention Policy for the Municipality of Brockton

Whereas The Council for The Corporation of the Municipality of Brockton deems it expedient to establish policies;

And Whereas the *Municipal Act 2001, S.O. 2001, c 25, Section 5(3)*, as amended provides that a municipal power, including a municipality's capacity rights, powers and privileges under section 9, shall be exercised by by-law;

And Whereas the *Municipal Act 2001, S.O. 2001, c 25, Section 254(1)*, as amended provides that a municipality shall retain and preserve the records of the municipality and its local boards in a secure and accessible manner and, if a local board is a local board of more than one municipality, the affected municipalities are jointly responsible for complying with this subsection;

And Whereas the *Municipal Act 2001, S.O. 2001, c 25, Section 255(2)*, as amended, provides that 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,

- a) the retention period has expired; or
- b) the record is a copy of the original record

And Whereas the *Municipal Act 2001, S.O. 2001, c 25, Section 255(3)*, as amended, 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 the Corporation of the Municipality of Brockton implemented a Records Retention Program Policy for the Municipality of Brockton on September 26, 2011 as per By-Law 2011-69, and the Municipality of Brockton now wishes to update the Records Retention Policy;

Now Therefore the Council of The Corporation of the Municipality of Brockton enacts as follows:

- 1.0 That the Corporation of the Municipality of Brockton Council hereby adopts a Records Retention Policy as contained in the attached Schedule "A" to this By-Law.
- 2.0 That By-Law 2011-69 be hereby rescinded and replaced by this By-Law.
- 3.0 That the authority for establishing and amending retention periods for the records of the Corporation of the Municipality of Brockton shall be delegated to the Clerk subject to the approval of the Municipal Auditor of such retention periods.
- 4.0 That the Clerk be authorized to amend the Records Retention Policy from time to time to remain consistent with legislation;
- 5.0 This By-Law shall come into full force and effect upon final passage.
- 6.0 This By-Law may be cited as the "Adopt Records Retention Policy By-Law".

Read, Enacted, Signed and Sealed this 6th day of June, 2023.

Mayor – Chris Peabody

Director of Legislative and Legal Services (Clerk) –
Fiona Hamilton

Policy A10-1000-23

Records Retention Policy

Department:	All Departments	Policy Number:	A10-1000-23
Section:	Administration	Effective Date:	June 6, 2023
Subject:	Records Retention Policy	Revised Date:	
Authority:	<i>Municipal Act, 2001; Municipal Freedom of Information and Protection of Privacy Act; By-Law 2023-063</i>		

1. Purpose

The purpose of this policy is to provide guidance and direction on the creation and management of records. Records of the Corporation of the Municipality of Brockton are valuable corporate assets needed to support effective decision making, meet operational requirements, protect legal, fiscal and other interests of the Municipality, and to adhere to the requirements of the *Municipal Act, 2001* as amended and the *Municipal Freedom of Information and Protection of Privacy Act* as amended.

The Records Retention Program is one of the cornerstones of a records management system. The Records Retention Schedule defines the processing of all records, regardless of the format and medium, from their creation to their destruction or their transfer to the archives of the Corporation of the Municipality of Brockton, or to the Bruce County Archives. It also defines the administrative responsibilities, as well as the archives.

2. Rationale and Legislative Authority

It is necessary to establish a standardized policy and practice regarding the application of the Records Retention Program to ensure that The Corporation of the Municipality of Brockton is meeting its legislated requirements. The Council of the Municipality of Brockton delegated authority to the Clerk to administer and amend the Records Retention Schedule for the Municipality.

The 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.

Section 4.1 of the *Municipal Freedom of Information and Protection of Privacy Act*, as amended, provides that every head of an institution shall ensure that reasonable measures respecting the records in the custody or under the control of the institution are developed, documented and put into place to preserve the Records in accordance with any recordkeeping or records retention requirements, rules or policies, whether established under the Act or otherwise, that apply to the institution.

Section 254 of the *Municipal Act, 2001* as amended provides that a Record of a municipality shall be retained and preserved in secure and accessible manner.

Section 255 of the *Municipal Act, 2001* as amended provides that a Record of a municipality may be destroyed if a retention period for the Record has been established and the retention period has expired.

3. Definitions

Active Record shall mean the records that are referred to and used on a regular basis and are generally stored in a department.

Active Retention shall mean the period of time that records are considered active with a higher frequency of use, stored nearby and are readily accessible to the users.

Archival Review shall mean the period of time during which a record is determined as having potential archival value.

Archival Record shall mean a record of enduring significance that has historical value for the Municipality and individuals engaging in historical research.

Archival Value shall mean the evidential and informational value of records, which is determined during appraisal and justifies the records preservation.

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. The Municipality of Brockton uses the Classification Schedule developed by The Ontario Municipal Records Management System (TOMRMS).

Clerk shall mean the Clerk of The Corporation of the Municipality of Brockton.

Copy shall mean a record that is a duplicate of an original.

Current shall mean the year in which the record was prepared.

Data shall mean the representations of information or of concepts, in any form, that are recorded or stored on any medium in or by a computer system or other similar device and that can be read or perceived by a person or a computer system or other similar device, including a display of that data.

Destroy/Disposition shall mean to eliminate a record or remove it from the official records keeping system.

Inactive Retention shall mean a period of time that records retain their inactive status, are referred to infrequently and are kept in a lower cost storage location.

Municipality shall mean The Corporation of the Municipality of Brockton.

Official Record shall mean a record that has operational, legal, fiscal, vital or historical value and that is legally recognized as evidence of a business transaction or establishes facts. Examples of official records include, but are not limited to:

- Transactions: orders, receipts, requests, confirmation;
- Interactions between clients, vendors, partners, or other departments and agencies;
- Planning documents: budgets, forecasts, work plans, blueprints, schematics;
- Reports, policy, briefing notes, memoranda, or other papers supporting business activities;
- Meeting documents: agendas, official minutes, records of decision;
- Committee documents: terms of reference, list of members;
- Records of discussions, deliberations, or any situation that documents the decisions made along with the logic used.

Original shall mean a record that was first produced or is a source document or is received by a department.

Orphan Data shall mean data that:

- Is not machine readable by any of the Municipality's computer systems in place during the disposal year, because the data exists with no identifiable computer application that can retrieve the data;
- Is machine readable but does not have sufficient content, context or structure to render it understandable by an experienced Municipality employee who is knowledgeable about the business function or functions to which the data relates.

Permanent shall mean a record that is preserved and/or never destroyed or removed from the official records keeping system.

Record 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" as defined in the *Municipal Act, 2001*.

Retention Period is the period of time during which a specific record must be kept before records may be disposed of. The retention period of an official record is calculated from the close date of the record as entered in the records management system. It includes a period of time the record is retained in the department after closure (active) plus a period of time in the Records Storage (inactive).

Retention Schedule shall mean a schedule/timetable that identifies the length of time a specific record series must be retained for before it may be disposed of. The Municipality of Brockton follows The Ontario Records Management System (TOMRMS) Retention Schedule as amended.

Superseded shall mean the record shall be retained until such time as they have been replaced with more current information.

TOMRMS shall mean The Ontario Municipal Records Management System which is the Corporations standardized file classification system.

Transitory or Temporary Record means a record that is of limited usefulness, created or received by employees or Committee or Local Board Members in carrying out their activities (often for convenience or reference) which does not provide evidence of decision making or work related to operations. Examples of transitory or temporary records include, but are not limited to:

- Unsolicited advertising and promotional material
- Product catalogues unrelated to corporate procurement
- Duplicate records/multiple copies, or copies kept for ease of reference or convenience only
- Working drafts of no particular significance that were never formally circulated.
- Annotated drafts where annotations become part of a subsequent version and do not provide evidence of decisions related to the evolution of the final document
- Data that has been extracted from an existing business record
- Working materials and correspondence not critical to decision-making
- General reference materials
- Training materials not required for a legislated purpose
- Casual communications such as invitations to events, launches or lunch

Vital Record shall mean a record that is essential to the continuation or resumption of Municipality business in the event of an emergency or disaster. A vital record allows the Municipality to continue to fulfill its obligation to taxpayers, employees, other levels of government and outside interested parties. Examples include: accounts receivable, accounts payable, payroll records, tax rolls, contracts, infrastructure drawings.

4. Application

The Records Retention Policy applies to all records created, received, maintained, or in the custody of the Corporation of the Municipality of Brockton regardless of their medium/format (example: email, paper, electronic), or location (example: onsite, storage facility). It is important to note that retention also governs the records generated from databases and with the aid of software. Retention rules are based upon the informational content of the record.

Any record in the custody or under the control of the Municipality is subject to the provisions of the *Municipal Act, 2001*, and the *Municipal Freedom of Information and Protection of Privacy Act*.

This Policy applies to all employees, Committee members, and local Board members who have access to, create and/or use records in the course of their duties.

This Policy does not apply to information or data stored on back-up servers as backups are only intended for use in disaster recovery or system failure and are disposed of on a rotational basis according to a defined term.

5. Principles

The following principles shall govern the destruction of records:

- No record shall be destroyed unless first classified according to the current records classification system;
- No record shall be destroyed unless the retention period has expired or the record is a copy of the original record;
- All records shall be destroyed in a manner that preserves the confidentiality of any information contained in such records;
- No record shall be destroyed without the appropriate authorization; and
- 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. Responsibilities

6.1 All Employees

All employees have the responsibility to:

- Ensure that all records they create or receive that are used to support a Municipal function or to conduct Municipal business are maintained and preserved as required by this Policy, applicable legislation, and the Records Retention Schedule;
- Recognize that records maintained by the Municipality have value;
- Create and maintain records whenever it is necessary to document, support or direct key decisions;
- Understand and apply records and information management, security, confidentiality, and privacy protection policies, standards, and practices;
- Identify official and transitory records and manage them in such a way that it provides concise, accurate, and complete evidence of decisions, transactions, and activities, regardless of communication methods; and
- Store records in the appropriate physical or electronic repositories.

6.2 Department Heads/Supervisors

Department Heads/Supervisors have the responsibility to:

- Ensure employees are trained to carry out their records and information management obligations;
- Review recommended retention periods relating to records in their department's custody or control to ensure the schedule meets the department's operational requirements;
- Approve departmental records destruction requests;
- Work with the Clerk's Department to ensure policies and procedures are applied;
- Ensure departing employees, where possible, have completed all requirements and take steps to verify their completion; and
- Inform the Clerk of breaches of records management policy (example: damage, theft, misuse, privacy complaints or unauthorized disposition of records).

6.3 Committee or Local Board Members

All Committee or Local Board Members have the responsibility to:

- Ensure that all records they create or receive that are used to support a Municipal function or to conduct Municipal business are maintained and preserved as required by this Policy, applicable legislation, and the Records Retention Schedule;
- Recognize that records maintained by the Municipality have value;
- Create and maintain records whenever it is necessary to document, support or direct key decisions;
- Transfer records to the Clerk's Department to ensure documentation is appropriately stored in physical, or electronic repositories, or archives.

6.4 Clerk's Department

As the Official Records Keeper under the *Municipal Act, 2001* the Clerk or their designate is responsible for keeping a copy of all disposal reports on a permanent basis and for authorizing the establishment of retention schedule updates, changes, etc.

The Clerk's Department has been delegated the responsibility for administering the Records Retention Program at the Municipality of Brockton.

The Clerk's Department also have the responsibility to:

- Provide leadership for the corporate-wide implementation of the Records Retention Program and its policies, standards, strategic planning, training and quality assurance as an integral part of the organization's usual and ordinary course of business;
- Make recommendations to Department Heads and Council regarding additional records management policy requirements
- Provide guidance and direction for retrieval services for inactive physical records;
- Identify the tools to provide facilities and employees the necessary support for records management services (example: transfers, retrieval, disposition);
- Facilitate the development, maintenance and improvement of records keeping solutions, tools and systems;
- Consult with the Information Technology Specialist and/or electronic Records Management System Provider to ensure the records management software and related programs are accessible by employees, and continue to maintain security and compliance.
- Maintain and update the Records Retention Schedule.

7. Official Records

Official records are created or acquired, regardless of their medium, because they enable and document decision-making in support of programs, services, and ongoing operations, and support departmental reporting, performance, and accountability requirements.

Official records are subject to management throughout their life cycle according to the requirements of the Records Retention Schedule.

8. Transitory or Temporary Records

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.

Working materials which are required for ongoing legal, fiscal, audit, administrative or operational purposes are not considered transitory records.

Transitory records that are the subject of ongoing legal proceedings or a request under the *Municipal Freedom of Information and Protection of Privacy Act* must not be destroyed until after the legal proceeding or request has been completed, and all possible appeals have been resolved.

9. Records Ownership

All records created, received, used or maintained by employees, Committee members, or local Board members in the course of their duties on behalf of the Corporation are the property of the Municipality of Brockton.

Employees leaving their positions with the Municipality shall leave all records for their successors. This applies to both temporary and permanent departures, including transfers within the organization.

10. Record Organization

The Municipality organizes records according to The Ontario Municipal Records Management System (TOMRMS) record classification system.

The current TOMRMS Records Classification System and Scope Notes shall be attached to this policy as Appendix A. The Clerk is hereby authorized to amend Appendix A to ensure compliance with the most current version(s).

11. Implementation of Records Retention Schedule

Review of the Records Retention Schedule shall take place regularly to ensure legal compliance. The Municipality of Brockton utilizes the Records Retention Schedule developed by The Ontario Municipal Records Management System (TOMRMS).

As part of the annual process for the disposition of records and subsequent to any destruction of records, Department Heads or Supervisors must notify the Clerk of their authorization to complete the disposition of their Department's records in accordance with the Records Retention Schedule, or notify the Clerk of the request to adjust the retention for particular records.

Upon the Clerk's satisfaction that the retention period has expired and disposition has been properly authorized by the Department Head or Supervisor, the Clerk shall:

1. Destroy the record in compliance with the *Municipal Freedom of Information and Protection of Privacy Act*, as amended; or
2. Set aside the record for long-term or permanent retention.

The current TOMRMS Records Retention Schedule shall be attached to this policy as Appendix B. The Clerk is hereby authorized to amend Appendix B to ensure compliance with the most current version.

12. Records Storage

Records must be organized, saved, maintained, retained and accessible within the approved physical or electronic repository appropriate to their use, sensitivity, and lifecycle rules associated to their retention period.

Physical repositories include filing cabinets, binders, shelving units and storage rooms.

The electronic repository is identified as the Municipality's electronic records management software, FileHold.

A repository accessible solely by an individual employee (example: email inbox, USB drive, computer desktop, personal computer drives) is not considered an appropriate or approved repository for records.

Shared computer drives are working environments and are not considered official repositories. Records in these locations should be transferred to FileHold in order to be properly managed in accordance with their Records Classification system, and Records Retention Schedule.

Active records and records that need to be easily accessible may be stored at the Municipal Office. Inactive records may be transferred to the Municipal Office storage room, or Greenock Works Shop.

12.1 Email Management

The Municipality of Brockton reserves the right, without the consent of the user, to monitor, examine, copy, store, forward and disclose the contents of email messages, especially in relation to investigations, legal proceedings, professional misconduct and requests under the *Municipal Freedom of Information and Protection of Privacy Act*.

It is the responsibility of all employees to safeguard information transmitted via email that is deemed to be a record or have informational value by storing the email in the Municipality's electronic repository, FileHold, as soon as practicable in order to ensure the record is managed corporately, and to prevent the untimely destruction. Emails stored in FileHold will be retained in accordance with the Records Retention Schedule.

12.2 Electronic Meeting Video Recordings

Video recordings of electronic Council and/or Committee Meetings are considered a duplicate copy of the official meeting minutes for ease of access, and are therefore categorized as transitory or temporary records. Electronic meeting video recordings will only be retained by the Municipality of Brockton for a period of two (2) years, as the official minutes will be considered the final record of the meeting(s).

13. Archival of Records

Records may be subject to archival selection, or transferred to the Municipal Office storage room, Greenock Works Shop, or the Bruce County Archives as authorized by the Clerk's Department.

Archival records will be managed for preservation throughout the information life cycle.

Archival records will be stored in formats that ensure the longest possible life of records or of the information contained in them. They will be handled and stored in a manner that minimizes damage and deterioration while in use.

14. Disposal of Records

Disposition is an integral part of the Municipality's usual and ordinary course of business. Records are disposed of only when retention requirements have been satisfied in accordance with the Records Retention Schedule, and after the appropriate reviews and processes have been completed. Proof of destruction will be maintained by the Clerk's Department.

All records must be disposed of in a manner appropriate for the security and privacy requirements of the information contained in the records.

Transitory records can be disposed of when they are no longer useful as the Records Retention Schedule does not apply to Transitory Records.

15. Suspension of Policy

In the event of a notice of potential litigation, claim, audit, or investigation for which the Municipality may have relevant records, the suspension of this policy shall come into effect for records applicable to the issue.

Suspension shall be initiated prior to the expiration of a retention period, and will be in effect until the completion of the action, or until the expiration of the retention period (whichever is later).

16. Compliance Audits

Compliance with the Records Retention Policy will be reviewed on a scheduled and random basis.