

# THE CORPORATION OF THE TOWNSHIP OF MALAHIDE

## BY-LAW NO. 16-69

Being a By-law to establish the retention periods for documents and records to be kept by The Corporation of the Township of Malahide.

**WHEREAS** Section 5(3) of the Municipal Act, 2001, c. 25, as amended, authorizes a municipality to pass by-laws to exercise its municipal powers;

**AND WHEREAS** Section 254(1) of the Municipal Act, 2001, c. 25, 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 WHEREAS** Section 255(3) of the Municipal Act, 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;

**AND WHEREAS** the Council of The Corporation of the Township of Malahide wishes to provide for the orderly retention and subsequent destruction or other disposition of its records;

**NOW THEREFORE** the Council of The Corporation of the Township of Malahide **HEREBY ENACTS AS FOLLOWS:**

### 1. DEFINITIONS

In this By-law:

“Active” refers to a record that is required for current use or is regularly referenced.

“Archival” refers to those records that are to be retained on a permanent basis due to their historical and research value.

“Auditor” means the person or firm appointed by the Council of the Township of Malahide from time to time to perform the annual audit of the records of the Township of Malahide.

“Classification” (as in records 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.

“Corporation” means The Corporation of the Township of Malahide.

"Destroy" and/or "Dispose" refers to the process of eliminating or deleting of data, documents and records so that the recorded information no longer exists.

"File" has the same meaning as "records" and may be used inter-changeably.

"Inactive" refers to the status of those records which have exceeded their active use but are still required on a less frequent basis. The retention of a record will start at this point because the file has been closed or ended in some way.

"In Department" (In Dept.) refers to the period of time records are kept "On-Site" or in department during the inactive portion of their lifecycle.

"Medium" and/or "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 non-volatile in nature.

"Official Records" means recorded information in any format or medium that documents the company's business activities, rights, obligations, or responsibilities or recorded information that was create, received, distributed or maintained by the company in compliance with a legal obligation.

"Off-Site" the period of time records are kept "Off-Site" or in storage during the inactive portion of their lifecycle.

"Records" means any record of information, however recorded, whether in printed form, on film, be electronic means or otherwise, including but not limited to correspondence, memoranda, plans, maps, drawings, graphic works, photographs, film, microfilm, microfiche, sound records, videotapes, machine readable records including email and databases, and any other documentary material regardless of physical form or characteristics, and including "official records" and "transitory records".

"Retention Period" means the period of time during which records must be kept by the Township before they may be disposed of.

"Retention Schedule" refers to a control document that describes the Corporation'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 Corporation's records.

"Transitory Records" means records kept solely for convenience of reference and of limited value in documenting the planning or implementation of Township policy or programs.

"Vital Records" are those that are essential to the continuation or resumption of Township business. Such records are required in order to recreate the financial and legal status of the Township in an emergency situation and/or are needed in order to enable the municipality to recover from a disaster situation with minimal disruption, cost and risk.

## **2. DUTIES AND RESPONSIBILITIES**

- a) Records are the property of The Corporation of the Township of Malahide.
- b) The "Official Record Holder" refers to the department, division, or service area which holds custody of the original records for the length of time required under Schedule "A" attached hereto.
- c) All Township employees who create, work with, or manage records shall:
  - i. Comply with the retention periods as specified in Schedule "A" attached hereto;
  - ii. Ensure that official records in their custody or control are protected from inadvertent destruction or damage; and
  - iii. Ensure that transitory records in their custody or control are destroyed when they are no longer needed for short-term reference.

## **3. RETENTION SCHEDULE**

- a) The retention periods for the records are set out in Schedule "A" attached hereto and forming part of this By-law.
- b) The Clerk shall administer this By-law and shall ensure that the retention periods set out in Schedule "A" attached hereto complies with all relevant legal requirements for records retention.

## **4. 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 Township shall not be destroyed unless such records are older than the retention period set out in Schedule "A" attached hereto.

- 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.
- d) In the event of any conflict between this By-law and any statute or regulation of the Government of Canada or the Government of the Province of Ontario, such statute or regulation shall prevail. If changes in the Act or pending legislation require the retention of any documents or records beyond the period stipulated in this by-law, then such documents or records shall be retained according to such requirements.

**5. REPEAL OF BY-LAW**

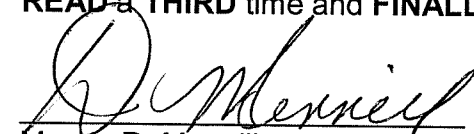
- a) THAT By-law No. 14-61, as adopted on August 7, 2014, including all appendices is hereby repealed in its entirety.
- b) THAT any other by-laws or provisions in other by-laws found to be inconsistent with this By-law are hereby deemed to be repealed.

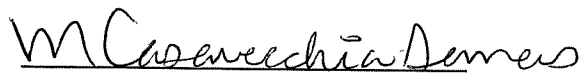
**6. APPROVALS**

THAT this By-law shall come into force and take effect on the final passing thereof, but the retention periods as set out in Schedule "A" attached hereto shall take effect only upon approval of the Township's Auditor.

**READ a FIRST and SECOND** time this 3<sup>rd</sup> day of November, 2016.

**READ a THIRD** time and **FINALLY PASSED** this 3<sup>rd</sup> day of November, 2016.

  
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Mayor, D. Mennill

  
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Clerk, M. Casavecchia-Somers