

The Corporation of the City of Guelph

By-law Number (2020) - 20543

A By-law to establish a schedule of retention periods for City business records and to repeal By-law Number (2018)-20288.

Whereas Section 255(3) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that the municipality may establish retention periods during which the records of the municipality must be retained and preserved in accordance with Section 254 thereof; and

Whereas the Council of the Corporation of the City of Guelph deems it desirable to establish retention periods for the business records of the municipality by enactment of this by-law; and

Whereas all records generated and received by staff and elected officials of the municipality in connection with City business are the express property of the Corporation of the City of Guelph;

The Council of the Corporation of the City of Guelph enacts as follows:

1. Definitions

In this by-law,

“Active records” are records that are referred to and used on a regular basis and are generally stored in a department, division or service area.

“Active retention” is the period of time that a record is considered active with a higher frequency of use, stored nearby and is readily accessible to users.

“Archival records” are records of enduring significance that have historical and business value for the City of Guelph and individuals engaging in historical research.

“Archival review” means the period of time during which it is determined whether a record has potential long-term archival value.

“Archival value” is the evidential and informational value of records, which is determined during an archival review to justify the long-term preservation of records in order to retain corporate memory and/or for future historical research.

“Authenticity” is the extent to which a business record can be proven to be what it purports to be.

“Business records” are any records that are created by City staff, or by a third party directly paid by and working on behalf of the City, in order to document the decision making, administration or operational activities of the City. This includes documents in any form, including physical paper files, digital files in any machine-readable format, emails, instant messages, video, etc.

“Business recordkeeping” is the creation, management and retention of meaningful, accurate, trustworthy, accessible and durable evidence of government activities and decisions, to create a reliable record of government and promote efficiency, effectiveness and accountability.

“City” means the Corporation of the City of Guelph.

“Clerk” means the City Clerk for the Corporation of the City of Guelph.

“Code” indicates the reference number for each records series, based on the corporate records classification system (TOMRMS – The Ontario Municipal Records Management System).

“Computer system” is a device or a group of interconnected or related devices, one or more of which:

- contains computer programs or other data; and
- pursuant to computer programs, performs logic and control, and may perform any other function.

“Copy” means a record that is a duplicate of an original.

“Current” means the year in which the record was prepared.

“Data” indicates 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.

“Destruction hold” means a hold placed on the destruction of any records required for legal, audit, freedom of information or investigation purposes. A formal hold notice is not necessarily required and staff are responsible for ensuring that any planned destruction is halted for related records as soon as they learn that any of the above processes are underway. A hold is not lifted until staff are notified that any of the above processes are completed and closed.

“Dispose” means to destroy a record or remove it from the official record keeping system. For digital records this involves deleting files and ensuring that any backups, such as those in the desktop ‘recycle bin’, have been deleted as well. For paper documents, this involves recycling, shredding or securely disposing of papers.

“Drafts” are a preliminary form or version of a document before it becomes a formal finalized record.

“File” means a collection of related records.

“Final record” means the record identified as being complete with no further changes planned. The last version of a document that is identified as finished, rather than just another version or draft.

“Inactive retention” is a period of time during which records retain their inactive status, are referred to infrequently and are kept in a location outside the general office area.

“Integrity” is the extent to which a business record is demonstrably complete and unaltered.

“Legal holds” are notices from the Legal Services department that another service area or department’s record(s) may be required for upcoming litigation. This notice suspends the normal retention requirements and halts the destruction of any of the records listed in the notice until subsequent notice is given that litigation is complete.

“Original records” are final business records that are designated as the official record.

“Orphan data” is data that:

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

“Permanent” means that records shall be preserved for the life of the Corporation and never destroyed or removed from the official record keeping system.

“Record” means any unit of information however recorded, whether in printed form, on film, by electronic means or otherwise, and includes correspondence, memoranda, plans, maps, drawings, graphic works, photographs, film, microfilm, sound recordings, videotapes, machine readable records, and any other documentary material, regardless of physical form or characteristics, made or received in the course of the conduct of City business.

“Records series” or **“Retention categories”** are groups of records that relate to a particular function or operation, that are filed together and need to be retained for the same period of time.

“Reference materials” are any documents not created by a City employee and not created by a third party working on behalf of the City. These documents are often used for research and as an additional source of information. Common examples of reference material would include journal articles, newspaper articles or

reports from outside organizations that are referred to by City staff. Reference materials are not required to be retained as part of the City's records retention schedule and are not the responsibility of the City to manage. These documents can be kept and used for as long or as short a time as an employee needs for their work.

"Reliability" is the extent to which the contents of a record can be trusted as a full and accurate representation of the transactions, activities or facts to which they attest and can be depended upon in the course of subsequent transactions or activities.

"Responsible department" means the department that creates the record(s) and/or is responsible for retaining/maintaining the original record(s).

"Retention periods" are the period of time during which a specific records series must be kept before records in that records series may be disposed of. The full retention period is made up of the total active and inactive time periods listed for a record.

"Superseded" means a record only needs to be retained until it is replaced with more current information.

"Transitory records" are records of temporary usefulness in any format that have no ongoing value beyond an immediate and minor transaction or the preparation of a subsequent record. They are of such short-term value that they are not required to meet legal obligations, or to evaluate or provide evidence of decision-making, administrative or operational activities. For example, staff working notes, outlook meeting invitations, etc. These documents can be kept and used for as long or as short a time as an employee needs for their work.

"Versions" are preliminary forms or drafts of a document before it becomes a formal finalized record.

"Vital Records" are records that are essential to the continuation or resumption of City business in the event of a disaster. They allow the organization to continue to fulfil its obligations to the taxpayers, employees, other levels of government, and outside interested parties.

2. Retention Schedule

2.1 Purpose

Retention schedules are timetables that indicate how long a record has business value, how long they should be retained and when their final disposition must be carried out.

2.2 Setting retention periods

In determining the retention periods for business records, the City Clerk or designate shall consider the following factors in consultation with City employees as needed:

- a) the operational nature and business needs of staff, including the period of time during which City staff use the records to carry out their work;
- b) the legal requirements set out for the records, including the length of retention necessary to comply with federal, provincial and municipal laws and regulations;
- c) the fiscal nature of the records, including the length of time they are needed for audit and tax purposes;
- d) the vital corporate nature of the records, including their value to ensure the continuation of City business in the event of a disaster; and
- e) the historical and archival value of the records; to be determined by the City Clerk or designate based on the value to future research and preservation of the history of the Corporation of the City of Guelph.

2.3 Non-business records

The records retention schedule attached hereto as Schedule 1 is only applicable to final business records, as defined above. Subject to any destruction holds related to litigation, investigation, audit or freedom of information requests, the following records may be destroyed at the discretion of the policies and processes of a department:

- a) copies of the final business record. However, any alteration of or added information to a copy constitutes a new original business record and should be retained according to the related retention period;
- b) drafts no longer needed once the final business record has been created and saved;
- c) transitory records, as defined above; and
- d) reference materials, as defined above.

3. Responsibilities

3.1 City Clerk or designate shall:

- a) develop and administer policies and processes for the City's Records and Information Management Program;
- b) ensure that final business records are retained and disposed of in accordance with Schedule 1 attached hereto;
- c) ensure that final business records are retained and disposed of in accordance with Schedule 1 attached hereto;
- d) ensure that destruction forms are completed, approved and preserved permanently; and
- e) amend Schedule 1 as required to ensure that retention periods meet up to date legislated requirements, as well as business needs, and obtain approval of any amendments to this by-law from Council.

3.1 Staff and Elected Officials shall:

- a) comply with the retention periods as specified in Schedule 1 attached hereto;
- b) ensure the destruction process is followed, including completing the destruction form and receiving the appropriate approvals prior to destruction;
- c) ensure that business records in their custody or control are protected from inadvertent destruction or damage; and
- d) ensure that transitory records and reference materials in their custody or control are destroyed when they are no longer needed.

Records created or accumulated by elected officials in a political capacity and outside of Council business are not corporate records and are not subject to the retention periods attached hereto in Schedule 1.

4. Disposal of Records

4.1 Retention periods

Retention periods for records shall be as set out in Schedule 1 attached hereto and forming part of this by-law.

4.2 Approval process

As part of the regular process for the disposal of records and prior to any destruction of records pursuant to this by-law, destruction shall be authorized in writing through the records destruction form by the appropriate department manager. The form must include a listing of record types and dates of records to be destroyed. The records may only be destroyed upon the approval of the records destruction form by the City Clerk or designate.

4.3 Recordkeeping

When records have been destroyed pursuant to this by-law, written confirmation of the destruction shall be retained by the City Clerk's Office.

4.4 Damaged records

The City Clerk or designate has the authority to destroy any records outside of their retention period due to natural occurrences, such as flooding or mould infiltration, whereby such records have become inaccessible, illegible or unsafe to handle.

4.5 Orphan data

Prior to the destruction of orphan data, a destruction form must be completed and include, to the extent that the information is available, the:

- a) title of the file(s);
- b) the department responsible for the creation and use of the orphan data; and
- c) where possible, the contents or the function that the information being destroyed relates to.

The written approval of the department manager and the approval of the City Clerk or designate are required prior to the destruction of any orphan data.

4.6 Extending retention periods

Where appropriate and taking into consideration the principles governing the disposition of business records, the City Clerk or designate may extend a retention period if required. Written notice for an extension must be provided to the City Clerk or designate by a department manager and shall include a business case as to why the records are required beyond their scheduled disposition date.

5. Principles Governing the Destruction of Final Business Records

The following principles govern the destruction of final business records:

- a) records can be destroyed when there are no further business needs or legislated requirements to retain business records;
- b) business records should be retained and disposed of according to consistent retention periods across all service areas and departments;
- c) business records disposed of at the end of their retention period and any drafts, copies or transitory records disposed of on a regular basis, shall be destroyed in a way that preserves the privacy and confidentiality of any information they contain;
- d) business 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 1 and a destruction form has been approved by the City Clerk's Office;
- e) drafts and copies of business records may be destroyed at any time if the final records are being retained in accordance with retention periods established in Schedule 1; and

- f) the destruction of final business records shall be documented, approved and tracked to ensure accountability and transparency.

6. Repeal of Previous By-law

By-law Number (2018)-20288 is hereby repealed.

Passed this 23rd day of November, 2020.

Schedules:

Schedule 1: City of Guelph Records Retention Schedule

Cam Guthrie, Mayor

Stephen O'Brien, City Clerk