

# THE CORPORATION OF THE CITY OF KAWARTHA LAKES

## BY-LAW 2009-165

### A BY-LAW TO AMEND BY-LAW 2007-303, BEING A BY-LAW TO ESTABLISH A RECORDS CLASSIFICATION SCHEME AND RECORDS RETENTION PERIODS

#### Recitals

1. Section 255. (3) of the *Municipal Act, 2001*, 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 in accordance with section 254.
2. It is deemed expedient to amend By-Law 2007-303, a by-law to establish a records classification scheme, to ensure it remains current with the organization and meets the needs of the departments within the City of Kawartha Lakes.

**Accordingly, the Council of The Corporation of the City of Kawartha Lakes enacts this By-law 2009-165.**

#### Section 1.00: Definitions and Interpretation

- 1.01 **Definitions:** Wherever a word is used in this By-law with its first letter capitalized, the term is being used as it is defined in this Section 1.01. Where any word appears in ordinary case, its regularly applied meaning in the English language is intended.
- (a) **“auditor”** means the person or firm appointed by the Council of the City of Kawartha Lakes from time to time pursuant to Section 296 of the *Municipal Act, 2001* to perform the annual audit of the records of the City.
  - (b) **“City”, “City of Kawartha Lakes” or “Kawartha Lakes”** means The Corporation of the City of Kawartha Lakes and its entire geographic area.
  - (c) **“City Clerk”** means the person appointed by Council to carry out the duties of the clerk described in section 228 of the *Municipal Act, 2001*.
  - (d) **“Council”** means the municipal council for the City.
  - (e) **“current”** means that year in which the record was prepared.
  - (f) **“in department”**, for the purpose of this by-law, shall designate the total length of time, in years, during which the records shall be retained in any department of the City, in addition to the current year.
  - (g) **“inactive”** means an official business record that is no longer required to conduct the current business of its creator but must remain the responsibility of the City due to administrative, legal or fiscal requirements and is to be retained at the Records Centre.
  - (h) **“inactive retention trigger”** means an activity, action or event that will cause a record to become inactive.
  - (i) **“MFIPPA”** means the *Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990*, Chapter M.56, as amended.
  - (j) **“official business record”** means a record that
    - i. commits the City to an action,
    - ii. documents any obligation or responsibility
    - iii. comprises information connected to the accountable business of the City,

- iv. is legally recognized as the corporate authority for establishing a fact and providing the most conclusive information, and
  - v. is registered in the Records Management System.
- (k) **“permanent”** means an official business record considered to be so valuable or unique in documenting the fiscal, legal, administrative or operational history of the City that it is never destroyed but it may be placed in storage.
- (l) **“records”** are all books, papers, maps, photographs, machine readable materials or other documentary materials (except transitory records), regardless of physical form or characteristics, generated or received by the City in connection with the transaction of public business, and preserved for any period of time by the City as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of this City government.
- (m) **“records management system”** means the system that registers, classifies and manages official business records of the City
- (n) **“subject classification code”** means the records classification code that the City departments are required to use to manage the records described in Column 2 of Schedule “A”.
- (o) **“subject content”** means the subject categories associated with the Subject Classification Code
- (p) **“superseded”** means an official record that is kept for an indefinite period until it is replaced by an updated official record and then it is destroyed.
- (q) **“terminated”** means that the records shall be retained until such time as an anticipated event occurs and then transferred to a storage facility.
- (r) **“total retention”** means the total length of time during which the official records are to be retained after which the records shall be destroyed without any copy being retained, or selected by an Archivist for preservation
- (s) **“transitory record”** means a record that is
- i. an administrative duplicate
  - ii. required solely for the completion of a routine action or the preparation of another record
  - iii. of insignificant or no value in documenting the City’s business transactions
  - iv. not an integral part of an official business record
  - v. not required to meet statutory obligations or sustain administrative or operational functions
  - vi. about social events that are not special City events
  - vii. not related to City business
  - viii. an e-mail message that is not an official business record
  - ix. an administrative duplicate of an e-mail message that has been printed where the printed version is an official business record
  - x. a voice mail message that is not transcribed, or
  - xi. a recovery back up tape for the City’s voice mail and e-mail systems.
- A transitory record may be deleted or otherwise destroyed on the same day the transitory record was created or received.
- (t) **“year”** means a full calendar year.
- (u) **“years active”** means the total length of time that an official business record is to be kept on-site with the business unit or in a centralized records office.
- (v) **“years inactive”** means the total length of time an official business record is to be kept as an inactive record in an off-site records storage facility.

1.02 **Interpretation Rules:**

- (a) Wherever this By-law refers to a person or thing with reference to gender or the gender neutral, the intention is to read the By-law with the gender applicable to the circumstances.
- (b) References to items in the plural include the singular, as applicable.
- (c) The word “include” is not to be read as limiting the phrases or descriptions that precede it.
- (d) In Schedule “A”
  - i. “T” means terminated
  - ii. “P” means permanent, and
  - iii. “S” means superceded
- (e) In this by-law when calculating the retention periods, the calendar year in which the official business record is created shall not be included in the calculation.

1.03 **Statutes:** References to laws in this by-law are meant to refer to the statutes, as amended from time to time, that are applicable within the Province of Ontario.

1.04 **Severability:** If a court or tribunal of competent jurisdiction declares any portion of this by-law to be illegal or unenforceable, that portion of this by-law shall be considered to be severed from the balance of the by-law, which will continue to operate in full force and effect.

Section 2.00: Records Classification Scheme
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2.01 **Records Classification Scheme:** The records classification scheme shall be comprised of three hierarchical levels of structures being in order, “Primary Code”, “Secondary Code” and “Tertiary”.

2.02 **The Primary Codes:** The Primary Codes shall be as shown on Schedule “A” attached hereto and forming part of this By-Law.

2.03 **The Combined Primary Codes and Secondary Codes:** The combined Primary Codes and Secondary Codes shall be as shown on Schedule “B” attached hereto and forming part of this By-Law.

2.04 **The Tertiary:** The Tertiary shall be the actual file name assigned to the folder.

Section 3:00: Records Retention
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3.01 **The Retention Periods:** The retention periods for the official business records of the Corporation of the City of Kawartha Lakes as set out in Schedule “B” are hereby adopted and established as the retention period for each such records commencing January 1, 2009.

3.02 **Destruction of Records:** Upon the Clerk or his/her designate being satisfied that the relevant retention period established by this by-law has expired and that no reason exists for further retention, the Clerk or his/her designate shall with the concurrence of the appropriate Director then order the official business records to be destroyed or to be set aside for archival retention in an archival facility.

- 3.03 **Certification of Destruction of Records:** When records have been destroyed under this by-law, the Clerk or his/her designate shall so certify in writing. Such certificate shall refer to the relevant item within the schedule and shall identify records destroyed.
- 3.04 **Index of Records Destroyed:** The Clerk or his/her designate shall keep an index of any records destroyed.
- 3.05 **Transitory Records:** A transitory record may be deleted or otherwise destroyed on the same day the transitory record was created or received.

Section 4.00: Continuation of Records Schemes and Retention Periods of Former By-Laws
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- 4.01 **Continuation:** Notwithstanding the enactment of this by-law, the records scheme, retention periods and related by-laws established by City of Kawartha Lakes By-Law 2001-22 and by the former municipalities shall remain in force and effect for records created prior to January 1, 2008.

Section 5:00 Approval of By-Law
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- 5.01 **Approval by Auditors:** This by-law shall not take effect until the Auditors of the City has approved this by-law by endorsing his or her name on Schedule "C" attached and forming part of this by-law.

Section 6.00 Effective Date
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- 6.01 **Effective Date:** This by-law shall come into force on September 1<sup>st</sup>, 2009, subject to the approval of the Auditors as identified in Section 5.01.

By-law read a first, second and third time, and finally passed, this 25<sup>th</sup> day of August, 2009.

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Mayor

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Clerk