

Corporation of the Township of Douro-Dummer

By-law Number 2024-06

Being a by-law to establish schedules of Retention Periods for records for the Township of Douro-Dummer (Records Retention By-law) and Repeal By-law 2012-41

Whereas the Ontario Municipal Act 2001, S. 0. 2001, c. 25, as amended, states that a record of a municipality may only be destroyed in accordance with this section;

And whereas the Ontario Municipal Act, 2001, S. 0. 2001, c. 25, as amended, states that a record of a municipality may be destroyed if a retention period for the record has been established and that the retention period has expired or the record is a copy of the original record;

And whereas the Ontario Municipal Act, 2001, S. 0. 2001, c. 25, as amended, states 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 the Act;

And whereas the Ontario Municipal Act, 2001, S. 0. 2001, c. 25, as amended, authorizes a municipality to delegate its powers and duties to a person;

Now Therefore the Council for The Corporation of the Township of Douro-Dummer enacts as follows:

1. That the retention period for the records of the Township of Douro-Dummer shall be The Ontario Municipal Records Management System (TOMRMS) schedule as updated annually and as attached to this By-law as Schedule "A".
2. That authority for establishing and amending retention periods for the records of The Corporation of the Township of Douro-Dummer shall be delegated to the Clerk.
3. That By-law No. 2012-41 be hereby repealed.

4. **Definitions**

"Auditor" shall mean the person or firm appointed by Council from time to time to perform the annual audit of the records of the Township of Douro-Dummer;

"Archival Selection" shall mean to evaluate and appraise a record for permanent retention due to its historical value;

"Classification" (as in records classification) shall mean the systematic identification and arrangement of records into categories according to logically structured conventions, methods and procedural rules represented in the classification scheme;

"Destroy" shall mean the process of eliminating or deleting data, documents and records so that the recorded information no longer exists;

"Disposition" shall mean the documented process that changes the status of the record, including retention; destruction, loss; or transfer of custody or ownership;

"Electronic Records" shall mean a set of recorded information that is recorded or stored on any medium in or by a computer system or similar device and that can be read, perceived by a person or a computer system or other similar device;

"Expungement" shall mean a process to eliminate completely, to wipe out, to destroy, or to obliterate an electronic record;

"Medium/Media" shall mean 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" shall mean recorded information in any format or medium that documents the Township's business activities, rights, obligations, or responsibilities or recorded information that was created, received, distributed or maintained by the Township in compliance with a legal obligation;

"Orphan Data" shall mean 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;

"Records" shall mean any recorded information, however recorded, whether in printed form, on film, by electronic means or otherwise, including correspondence, memoranda, plans, maps, drawings, graphic works, photographs, film, microfilm, microfiche, sound records, videotapes, e-mail, machine readable records, and any other documentary material regardless of physical form or characteristics, and including "official records" and "transitory records";

"Records Management" shall mean the field of management responsible for the efficient and systematic control of the creation, receipt, maintenance, use and disposition of records, including processes for capturing and maintaining evidence of and information about business activities and transactions in the forms of records;

"Responsible Department" shall mean the department with the primary responsibility for retaining the record as noted in the retention table;

"Retention Period" shall mean the period of time during which the Township must keep records before they may be disposed;

"Retention Schedule" shall mean a document that describes the Township'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 value, 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 Township's records;

"Transitional Records" shall mean records kept solely for convenience of reference and of limited value in documenting the planning or

implementation of Municipal policies or programs. A transitional record may be deleted or otherwise destroyed on the same day the transitional record was created or received. Examples of transitional records include:

- 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 document 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. Video recordings of meetings; save for Open Council and Committee meetings set out in Schedule "A";
- vii. E-mail messages and other communications that do not relate to Township business;
- viii. Copies of publications, such as published reports, administration manuals, telephone directories, catalogues, pamphlets or periodicals;
- ix. Duplicate stocks of obsolete publications, pamphlets or blank forms;
- x. Unsolicited advertising materials, including brochures, company profiles and price lists.

"Vital Record" shall mean a record of any form or format containing information that is essential to continue the immediate operation of the Township and that is necessary to recreate its legal and financial position and to preserve its claims and rights and those of its stakeholders.

5. **Retention Schedule**

- a) The Records Retention Schedule attached hereto as Schedule "A", forms 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 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 Township employees where appropriate:
 - i. The operational nature of the records, including the period of time during which the Township uses the record to perform its functions;
 - ii. The legal nature of the records, including the period of time necessary to comply with statutory or regulatory requirements imposed by agreements, permits or other 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, including the long-term value of the records for documenting past events or the origins and history of the Township.

6. Deferral of Record Disposition in the Event of Litigation

In the event that the Township of Douro-Dummer is served with any subpoena or request for documentation, or staff members of the Township become aware of a potential governmental investigation, or audit, or the potential of any litigation against or concerning the Township of Douro-Dummer, they must notify the Clerk and any disposal of documents must be suspended until the Clerk, with the advice of Council and/or legal advice, determines otherwise. The Clerk shall take such steps as necessary to promptly notify all staff of any suspension in the further disposal of documents.

7. Responsibilities of Staff and Elected Officials

All Township Employees 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 transitional records 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 Township business are not corporate records when these records are stored and managed separately from Municipal Records using non-Municipal equipment and not handled by Municipal staff.

8. Responsibilities of the Clerk

The Clerk shall:

- a) Develop and administer policies and establish and administer procedures for the Township's Records Management Program;
- b) Amend Schedule "A" and obtain approval of the changes from the municipal auditor if required;
- 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 9 of this By-law and all certificates of disposition prepared pursuant to Subsection (f) of Section 9 of this By-law are preserved.

9. Disposition of Records

- a) The departments, in conjunction with the 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 department manager to the 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:
 1. The title of the system;
 2. The identification of the responsible department in charge of the creation or use of the data;
 3. A brief description of the system's purpose;
 4. Where possible, a contents list of the information being destroyed; or

5. A brief description of any sub-systems, their purpose and relationship to the main system or other sub-systems;
and
 6. The name of the technical contact person who's responsible for documenting the system;
- ii. The written approval of the manager/director of the department; 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 considering 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 department manager/director to the Clerk for each additional year.
 - e) If no notice is received under Subsection (d) of Section 9 of this By-law before the scheduled disposition date, the records shall be deemed to be authorized for disposition by the department manager/director.
 - f) When official records have been disposed of pursuant to this By-law, the Clerk shall obtain written confirmation of such disposition.

10. Principles Governing the Destruction of Official Records

- a) The following principles govern the destruction of official records:
 - i. When there are not 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, and have been identified in a disposition notice prepared pursuant to Section 6 of this By-law.
- c) Copies of official records do not require formal approval for destruction and may be destroyed at any time if the original records are being retained in accordance with Schedule "A" attached hereto.

11. Citing of By-law

This By-law may be cited as the "Records Retention By-law".

Passed in open Council this 20th day of February, 2024.

Mayor, Heather Watson

Clerk, Martina Chait-Hartwi

Schedule "A"

The Ontario Municipal Records Management System (TOMRMS) schedule as updated annually and provided by:

The Information Professionals
An IMC Affiliated Company