

# FORMAL REPORT

**To:** Mayor Stratthdee and Members of Council

**Prepared by:** Trisha McKibbin, Director of Corporate Services

**Date of Meeting:** 12 June 2018

**Subject:** **COR 16-2018 Video Surveillance Policy**

## PURPOSE

To provide Council with information on video surveillance in the municipality, the *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)* implications, and to present Council with a final version of the Municipal Video Surveillance Policy for adoption.

## RECOMMENDATION

THAT COR 16-2018 Video Surveillance Policy be received; and

THAT By-law 60-2018 being a by-law to approve a Municipal Video Surveillance Policy be approved.

## BACKGROUND

On March 20, 2018 staff brought forward a draft Municipal Video Surveillance Policy to the Strategic Priorities Committee. At that meeting staff were directed to investigate the legislative requirements of the municipality should a police service request surveillance records for the purpose of generating public feedback about identifiable individuals.

## REPORT

### Notice of Collection

*MFIPPA* requires that individuals be notified of the collection of their personal information, subject to specific and narrow exceptions. Specifically, section 29(2) of *MFIPPA* provides that an individual must be informed of:

- (a) The legal authority for the collection;
- (b) The principal purpose or purposes for which the personal information is intended to be used; and
- (c) The title, business address and business telephone number of a public official who can answer the individual's questions about the collection.

It is therefore recommended that the Town implement the following:

- Signs with a clear, language-neutral graphical depiction of the use of video surveillance are prominently displayed at the perimeter of the monitored areas and at key locations within the areas. The signs should include basic information to clarify that video surveillance is being used in the area.
- The information required by paragraphs (a)–(c) of section 29(2) of *MFIPPA* is available and easily accessible on the Town's website.

### Lawful Disclosure

While there may be other situations where the disclosure of video surveillance footage is permitted, video surveillance may be disclosed to a law enforcement agency when:

- the law enforcement agency approaches the Town with a warrant requiring the disclosure of the footage, as per section 32(e) of *MFIPPA*,
- the law enforcement agency approaches the Town, without a warrant, and asks that we disclose the footage to aid an investigation from which a proceeding is likely to result, as per section 32(g) of *MFIPPA*, or
- staff observe an illegal activity on our premises and disclose the footage to a law enforcement agency to aid an investigation from which a proceeding is likely to result, as per section 32(g) of *MFIPPA*.

**The municipality is responsible for complying with *MFIPPA* when releasing the information to law enforcement. Once the record is in the hands of law enforcement they become responsible for complying with all legislative requirements, including *MFIPPA*, for safekeeping of personal information.**

In the instances where disclosure is permitted, the Town must protect the privacy and security of the personal information on the video surveillance. Section 3 of Regulation 823 of *MFIPPA* requires institutions to define, document and put in place reasonable measures to prevent unauthorized access as well as inadvertent destruction or damage of records. Accordingly, when disclosing personal information, it is important that the municipality:

- Maintains an auditable log of each disclosure;
- Ensures the log includes the date, time and location of the footage and, where applicable, the case file number of the law enforcement agency's investigation;
- Ensures the log also includes a description of the circumstances justifying the disclosure, the amount of footage involved, the name, title and agency to whom the footage is being disclosed, the legal authority for the disclosure, the means used to disclose the footage and whether the footage will be returned or securely destroyed after use;
- Ensures that if digitized, the footage is securely encrypted.

### Access

Individuals have a general right of access to records in the custody or under the control of institutions, under section 4 of *MFIPPA*. Additionally, individuals whose personal information is in the custody or under the control of institutions have a right of access to that personal information under section 36(1) of *MFIPPA*.

While an individual may have a right to access the relevant footage, the Town must remove or redact information from the video footage to protect the personal privacy of others on the video.

### Retention

Section 5 of Regulation 823 of *MFIPPA* require institutions in general to retain personal information for at least one year after use, although Regulation 823 permits municipal institutions to reduce this time period through a resolution or bylaw. It is important to note that this retention requirement applies only to personal information that has been "used" by institutions. It does not apply to personal information that has been collected but not used, which in the case of video surveillance may have much shorter retention requirements.

### Video Surveillance Policy

A Video Surveillance Policy assists the Town in defining, documenting and fulfilling the requirements set out in section 3 of Regulation 823 of *MFIPPA*. The attached draft Video Surveillance Policy sets out the guidelines for the following:

Guidelines	Section of Policy
A description of the status of the Town under <i>MFIPPA</i> and the duties and responsibilities that arise as a result of this status. Includes the Town's obligations with respect to notice, access, use, disclosure, retention and disposal of records in accordance with <i>MFIPPA</i> .	Section 1.0, pg. 1 Section 2.0, pg. 1
The rationale, objectives and justification for implementing the video surveillance program.	Section 1.0, pg. 1
Description of the nature of the personal information collected.	Section 3.0, pg. 1
Limitations placed on access to and use of personal information by employees, including the individuals that can view the information and under what circumstances it may be viewed.  A description of the procedure that must be followed in the event that an employee is requested to disclose personal information.	Section 5.4, pg. 3
The potential consequences to employees if they breach policies or procedures.	Section 8.0, pg. 5
The designation of a senior staff member to be responsible for the Town's privacy obligations under <i>MFIPPA</i> and its policy.	Section 6.0, pg. 4
The administrative, technical and physical safeguards implemented by the Town to prevent unauthorized access to personal information and to protect personal information from inadvertent destruction or damage.	Section 5.4 , pg. 3
The duties and responsibilities of employees in implementing the administrative, technical and physical safeguards put in place. This includes the signing of a written agreement to adhere to these duties, including an undertaking of confidentiality, and to undergo initial and ongoing privacy training.	Section 6.0, pg. 4
The retention periods of the surveillance footage.	Section 5.5, pg. 3

## SUMMARY

This report provides Council with information on video surveillance and the Town's obligations under the *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)*, as well as a Video Surveillance Policy for Council's review and adoption.

## FINANCIAL IMPLICATIONS

Manufacturing and installation of new signage - \$2,000

## STRATEGIC PLAN

☒ Not applicable to this report.

## OTHERS CONSULTED

Mike Kuttschutter, IT Network Administrator

Ray Cousineau, Facilities Supervisor

Evelina Skalski, Manager, Records and Information Services, City of London

## ATTACHMENTS

Video Surveillance Policy

Video Surveillance Systems Location and Schedule

## REVIEWED BY

### Recommended by the Department



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Trisha McKibbin

Director of Corporate Services

### Recommended by the CAO



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Brent Kittmer

CAO / Clerk