

**THE CORPORATION OF THE CITY OF WINDSOR**  
**POLICY**

Service Area:	<b>Office of the City Solicitor</b>	Policy No.:	
Department:	<b>Risk Management</b>	Approval Date:	<b>November 15, 2021</b>
Division:		Approved By:	<b>CR527/2021</b>
		Effective Date:	<b>November 15, 2021</b>
Subject:	<b>Video Surveillance Policy</b>	Procedure Ref.:	
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**1. POLICY STATEMENT**

1.1. The Corporation of the City of Windsor (the “Corporation”) is committed to enhancing the safety and security of the public, its employees, and its property, while balancing an individual’s right to privacy.

**2. PURPOSE**

2.1. This Policy and any related procedures aim to achieve the balance outlined in the Policy Statement by establishing guidelines with respect to the installation and operation of video surveillance systems, the use of information obtained through video surveillance systems, and controlling access to the records created by video surveillance systems.

**3. SCOPE**

3.1. This Policy applies to Members of Council and all Departments, employees, students, and volunteers of the Corporation.

3.2. This Policy applies to all Video Surveillance Systems located in all City owned or leased properties and facilities, but does not include video surveillance systems located on Transit buses, in the custody of or operated by the Windsor Police Service, installed by a tenant in a leased City facility, any covert surveillance arranged specifically for a criminal or civil investigation, or any surveillance used for case-specific law enforcement purposes where there is a statutory authority or a search warrant to conduct the surveillance.

3.3. The responsibilities, installation, operation, and uses of cameras located on buses are unique to Transit buses, and accordingly, all matters pertaining to cameras on buses will be governed by their own policy and/or procedures.

3.4. Any public safety policy regarding the prevention and enforcement of crime on public streets is the law enforcement mandate of the Windsor Police Service and not within the security mandate for the City.

3.5. This policy does not apply to Digital Recordings used for employment related or labour related information.

#### **4. DEFINITIONS**

4.1. **Video Surveillance System** [“VSS”] means City-owned and placed audio/visual recording equipment that enables the observing, monitoring, or recording of images and sound within public spaces in a digital format, deployed in an overt and fixed manner without the use of video analytics, but does not include audio/visual recording equipment that has a dominant purpose of observing, monitoring, or recording traffic, weather, airspace, water, navigation, or environmental conditions. Notwithstanding the foregoing, a VSS does not include Digital Recordings of public or private meetings of Council or City Administration.

4.2. **Digital Recording** means the audio/visual data created and stored by the Video Surveillance System.

4.3. **Privacy Breach** means an incident involving the unauthorized disclosure of personal information.

4.4. **MFIPPA** means the *Municipal Freedom of Information and Protection of Privacy Act*, as amended from time to time.

#### **5. RESPONSIBILITY**

5.1. The Chief Administrative Officer is responsible to promote and enforce compliance with this Policy.

5.2. The City Clerk and their designates are responsible to:

- Respond to requests for disclosure under the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA) or any other applicable legislation;
- Respond to requests from the public and employees about the collection, use, and disclosure of personal information captured by a VSS;
- Respond to privacy complaints received through the Office of the Information and Privacy Commissioner of Ontario (IPC);
- Lead departments in addressing improper disclosure of personal information;
- Assist the Senior Manager of Facilities in approving the locations of a VSS in accordance with MFIPPA and best practices as determined by the Information and Privacy Commission of Ontario;
- Notify the IPC of Privacy Breaches, where appropriate.
- Administer and communicate this policy upon requests for Digital Recordings;
- Review this policy every 5 years.

5.3. The City Solicitor and their designates are responsible to:

- Advise departments on the applicability of privacy legislation, and provide legal advice, where required, on the City's obligations with respect thereto;
- Ensure this policy complies with applicable privacy law and any changes thereto as may be made from time to time.

5.4. The Senior Manager of Facilities and their designates are responsible to:

- Ensure a public notice for video surveillance is placed at all City spaces that have a VSS;
- Determine the need, location and approve the use of VSSs in accordance with this policy and direct the Information Technology Department in relation thereto.

5.5. The Executive Director of Information Technology and their designates are responsible to:

- Provide guidance and support for the VSS and Digital Recordings;
- Install and maintain VSS in accordance with this policy;
- Respond to requests for disclosure made pursuant to 6.14 to 6.17 of this policy;
- Capture, retain, and arrange for the viewing, export, and/or distribution of Digital Recordings when required by this policy;
- Maintain the security of Digital Recordings within their custody and control;

5.6. Executive Directors and Senior Managers are responsible to:

- Ensure that staff are aware of and abide by this Policy and any related procedures;
- Ensure the appropriate use of the VSS at their facilities, where applicable;
- Refer any external requests for Digital Recordings to the City Clerk.

5.7. Employees are responsible to:

- Follow this Policy and its related procedures in all circumstances;
- Report to their Supervisor or Manager any suspected Privacy Breach;
- Comply with retention periods applicable to Digital Recordings;
- Maintain the security of Digital Recordings within their custody and control.

## **6. GOVERNING RULES AND REGULATIONS**

6.1. This policy reflects the provisions of MFIPPA and is subject to MFIPPA and any other privacy legislation that may apply in the circumstances. To the extent that this policy may conflict with applicable privacy legislation, the applicable privacy legislation shall prevail.

6.2. By-law 21-2013, *Records Retention By-law*.

6.3. To the extent that this policy may conflict with an applicable collective agreement, the applicable collective agreement shall prevail.

## **Installation of VSS**

- 6.4. All locations for a VSS and accompanying signage require the approval of the Senior Manager of Facilities and the City's Freedom of Information Coordinator.
- 6.5. The use and location of VSS will be determined on the basis of reasonable and justifiable grounds for the provision of safety and security and in accordance with MFIPPA and any other governing legislation, giving consideration to the following:
- Whether there is a real, substantial, and pressing problem to be addressed;
  - Whether other less intrusive means of achieving the same goals have been considered and are substantially less effective than video surveillance or are not feasible;
  - Whether the benefits of video surveillance substantially outweigh the reduction of privacy inherent in its use;
- 6.6. VSS placement will be assessed on a case by case basis to determine the effects the VSS may have on personal privacy and the sensitivity of personal information collected. Where possible, cameras will be positioned so that they only capture locations intended to be monitored, and will not be directed to look through the windows of adjacent buildings or onto adjacent property. Where this is not possible, stakeholder consultation will take place prior to VSS placement.
- 6.7. No camera will be placed in a manner that captures areas where individuals have a greater expectation of privacy, such as washrooms, change rooms, or through windows of private residences/buildings, including Huron Lodge.
- 6.8. Clearly visible signs will be placed at all locations under surveillance notifying all those in the area of same.

## **Operation of VSS**

- 6.9. The Executive Director of IT or their designates, including but not limited to contractors, are the only persons who may patch, update, or in any other way

handle the VSS computer hardware or software, as well as capture, export and treat Digital Recordings in accordance with this Policy [collectively the “VSS Operation”].

6.10. Notwithstanding the foregoing, the Senior Manager of Facilities or their designates, including but not limited to contractors and designated staff in other operating departments, are the only persons who may physically handle and regularly monitor the VSS. The Senior Manager of Facilities will maintain a list of all persons designated.

6.11. The Executive Director of IT is responsible for establishing an appropriate training program for the VSS Operation, and will ensure all VSS operators are trained appropriately.

### **Use of Digital Recordings**

6.12. Digital Recordings may only be used for the following purposes:

- Enhancing the safety and security of persons or property;
- Preventing unauthorized entry or activities on City property;
- To investigate an incident involving suspected health and safety violations/concerns, security and property damage, illegal activity, a violation of the Respectful Workplace Policy, or involving a potential or actual insurance-related claim;
- To manage corporate risk;
- To preserve evidence as required to protect the City’s legal rights;
- To respond to a request for information under MFIPPA;
- To aid law enforcement agencies with a matter under investigation;
- To assess the effectiveness of any of the above-noted uses;
- As required by Court Order;
- In anticipation of one of the above-noted uses;
- For a purpose consistent with the above-noted uses, including data analytics and service enhancements.

6.13. Where, on its face, employee conduct or behaviour falling below the standard of performance required for their position has been captured on a Digital Recording and is observed by authorized employees viewing the Digital Recording for a purpose authorized by 6.12 , the Digital Recording may be used as part of an internal investigation into the observed improper conduct or behaviour.

### **Requests for Disclosure**

6.14. Any person may make a written request for access to a Digital Recording by submitting a Freedom of Information Request, and access will be determined through that process.

6.15. City employees, City insurers, or those hired to work on the City's behalf may be provided with a copy of a Digital Recording if it is necessary for one or more of the uses outlined within this policy.

6.16. Law enforcement agencies may be provided with a copy of a Digital Recording in accordance with the disclosure provisions set out in MFIPPA.

6.17. The City Solicitor or their designate may be provided with a copy of a Digital Recording and disclose that Digital Recording if, in their discretion, it is in the interest of justice to do so, and disclosure is compliant with MFIPPA.

6.18. Any uncertainty whether a use is consistent with the uses outlined within this policy shall be determined by the City Clerk or their designate.

6.19. Any unauthorized disclosure of information is cause for disciplinary action up to and including termination.

### **Access Procedure**

6.20. All requests for disclosure made pursuant to 6.15 to 6.17 must be made in writing/email to the Executive Director of IT or their designate. The Executive

Director of IT must be satisfied that access is permissible pursuant to this policy before granting this disclosure.

6.21. Notwithstanding the foregoing, all requests related to an investigation of insurance claims must be authorized by the City Solicitor or their designate.

6.22. When access to a Digital Recording is given, the following information will be logged:

- The date and time disclosure was made;
- The identity of the party to whom the disclosure was made;
- The reason for the disclosure;
- The details of what was disclosed (ex. time period, VSS location, facility, etc.); and
- Where applicable, a case file number.

### **Live Viewing**

6.23. Live viewing is restricted to locations where there is a high likelihood of safety and security concerns, as determined by the Senior Manager of Facilities. Live feed monitors will be turned off when not in use.

6.24. Live feed monitors must not be viewable by the public.

6.25. The frequency of viewing a live feed monitor and when a live feed monitor will be in use is to be determined by the Executive Director/Senior Manager of the facility or their designate, in consultation with the ED of Information Technology and the Senior Manager of Facilities or their designates.

### **Retention and Destruction**

6.26. There are varying VSSs used with varying system requirements and overwrite periods. Digital Recordings requested or used by City employees in accordance with this policy will be kept in accordance with the City's Records Retention By-law, and the Executive Director of said employee is responsible for

compliance with same. All other Digital Recordings will be automatically overwritten in accordance with its VSS storage capacity.

6.27. Notwithstanding 6.20, the Executive Director of IT or their designate may pre-emptively capture a Digital Recording in anticipation of an access request in accordance with this policy to prevent it from being overwritten.

6.28. The Executive Director of IT or their designate will keep a log of all Digital Recordings captured.

6.29. Any City employee with a copy of a Digital Recording is responsible to keep it in a secure location during its retention.

## **7.0 RECORDS, FORMS AND ATTACHMENTS**

6.30. City of Windsor Access to Records Request Form