



# MUNICIPALITY OF **West Elgin**

**The Corporation Of The Municipality Of West Elgin**

## **By-Law No. 2023-44**

### **Being a By-Law to adopt Policy AD-4.1 – Video Surveillance Policy**

**Whereas** section 5(3) of the *Municipal Act 2001*, S.O. 2001, c25, as amended, provides that a municipal power shall be exercised by by-law; and

**Whereas** the Council of the Municipality of West Elgin deems it expedient to adopt a Video Surveillance Policy; and

**Now therefore** the Council of the Municipality of West Elgin enacts as follows:

1. That Policy AD-4.1 – Video Surveillance Policy, identified as Schedule “A” attached hereto is authorized and approved.
2. That this by-law shall come into force and effect on May 25, 2023.

Read a first, second, and third time and finally passed this 25<sup>th</sup> day of May 25, 2023.

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Richard Leatham  
Mayor

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Heather Bouw  
Clerk

## **Municipality of West Elgin**

### **Schedule "A" to By-Law #2023-44**

#### **Policy AD-4.1**

#### **Video Surveillance Policy and Procedure**

**Effective Date: May 25, 2023**

**Review Date: NEW**

### **1. Policy Statement**

The Municipality of West Elgin (the Municipality) recognizes the need to balance an individual's right to privacy and the need to ensure the safety and security of municipal employees, clients, visitors and property.

As an institution governed by the Municipal Freedom of Information and Protection of Privacy Act R.S.O. 1990, Chapter M. 56 (MFIPPA), the Municipality has obligations with respect to notice, access, use, disclosure, retention and disposal of records.

While video surveillance cameras are installed for safety and security reasons, the Municipality's video surveillance systems must also be designed to minimize privacy intrusion.

Proper video surveillance, where deemed necessary, is one of the most effective means of helping to keep Municipal facilities and properties operating in a way that protects security, safety, and privacy. Personal information collected by video surveillance includes video images and audio.

### **2. Purpose**

This Municipal policy has been developed to govern video surveillance at municipally owned and leased properties in accordance with the privacy provisions of MFIPPA.

### **3. Municipal Freedom of Information and Protection of Privacy Act**

As detailed in Section 38(2) of the Freedom of Information and Protection of Privacy Act (FIPPA) and 28(2) of Municipal Freedom of Information and Protection of Privacy Act (MFIPPA), personal information may be collected without consent when it is:

- a) expressly authorized by statute or by-law,
- b) used for the purposes of law enforcement, or
- c) necessary to the proper administration of a lawfully authorized activity.

This policy has been developed to conform with practices outlined by the Information and Privacy Commissioner of Ontario ("IPC") in a document entitled Video Surveillance: The Privacy Implications.

The IPC has indicated that after careful consideration, an institution may decide to use video surveillance for purposes in accordance with MFIPPA.

#### **4. Application**

This policy applies to all types of camera surveillance systems, surveillance monitors, and camera recording devices at municipally owned and leased properties that are used for security purposes.

This policy does not apply to:

- Agencies, Boards, and Commissions,
- Cameras used by the Ontario Provincial Police,
- Video surveillance used for employment related or labour-related information, OR
- Cameras used for the reduction of liability for the surveillance of roads and their conditions.

The CAO is responsible for the Video Surveillance Policy. The CAO may delegate responsibilities under this Policy to other staff.

The CAO is responsible for providing a response to access requests.

The key duties of the CAO include:

- Ensuring policy compliance.
- Undertaking yearly evaluations of video surveillance system installations to ensure compliance with this Policy.
- Approving installation of video cameras at specified municipally owned and leased properties.
- Advising on placement of video surveillance monitoring signs.
- Acting as the primary contact for all requests by law enforcement agencies for access to video records.
- Overseeing day-to-day operations of video surveillance cameras.
- Ensuring monitoring and recording devices are stored in a safe and secure location.
- Ensuring logbooks, recording all activities related to video devices and records, are kept and maintained.
- Ensuring that no copies of data/images in any format (hardcopy, electronic, etc.) is taken from the video surveillance system inappropriately.
- Investigate video surveillance security privacy breaches.

- Providing status updates to Council, annually, regarding staff adherence to the responsibilities within the policy.
- Reporting to Council when video surveillance is being proposed in new locations.
- All Staff must adhere to the video surveillance policy and must not access or use information contained in the video surveillance system, it's components, files, or database for personal reasons, nor dispose, destroy, erase or alter any record without proper authorization and without following the regulations contained in the Security Video Surveillance Policy.

## **5. Guidelines Prior to Video Surveillance System Installations**

Before deciding to install video surveillance, the following factors must be considered:

- The use of video surveillance cameras should be justified on the basis of verifiable, specific reports of incidents of crime or significant safety concerns.
- A video surveillance system should only be considered after other measures of deterrence or detection have been considered and rejected as unworkable.
- An assessment must be conducted on the effects that the proposed video surveillance system may have on personal privacy, and the ways in which any adverse effects can be mitigated.
- The proposed design and operation of the video surveillance systems should minimize privacy intrusion.
- Whether or not additional sensory information, such as sound, is directly related to potential problems or does not need to be recorded.

When designing a video surveillance system and installing equipment, the following must be considered:

- The video surveillance systems may operate at any time in a 24- hour period.
- Video equipment should be installed to only monitor those spaces that have been identified as requiring video surveillance.
- The ability to adjust cameras should be restricted, if possible, so that the cameras do not record and operators cannot adjust or manipulate cameras to overlook spaces that are not intended to be covered by the video surveillance program, such as through windows in adjacent buildings or onto adjacent properties.
- Equipment should never monitor the inside of areas where the public and employees have a higher expectation of privacy (e.g. change rooms and washrooms).

- Where possible, video surveillance should be restricted to periods when there is a demonstrably higher likelihood of crime being committed in the area under surveillance.
- Viewing and recording equipment must be located in a strictly controlled access area.
- Only identified staff shall have access to the controlled access area and the reception/recording equipment.
- Every reasonable attempt should be made to ensure video monitors are not in a position that enables the public and/or unauthorized staff to view the monitors.

## **6. Notice of Use of Video Systems**

In order to provide notice to individuals that video is in use:

- The Municipality shall post signs, visible to members of the public, at all entrances and/or prominently displayed on the perimeter of the grounds under video surveillance (see Appendix #2).
- The notification requirements of this sign must inform individuals, using words and symbols, of the legal authority for the collection of personal information; the principal purpose(s) for which the personal information is intended to be used; and the title, business address, and telephone number of someone who can answer questions about the collection (see Appendix #2).
- This information will also be available on the Municipal website.

## **7. Personnel Authorized to Operate Video Equipment**

Only the CAO and staff designated by the Clerk, shall be permitted to operate video surveillance systems.

## **8. Video Equipment And Records**

### **Types of Recording Devices**

The Municipality may use Digital Video Recorders (DVR) in its video systems. Facilities using video recorders will retain these records for a period of up to 30 days, depending on the recording device and technology. A record of an incident will only be stored longer than 30 days where it may be required as part of a criminal, safety, or security investigation or for evidentiary purposes.

Monitors will be kept in a secure location where they are not visible to the public.

## **Record Identification**

All records (storage devices) shall be clearly identified (labeled) as to the date and location of origin. They shall be labeled with a unique, sequential number or other verifiable symbol. In facilities with a DVR that stores information directly on a hard drive, the computer time and date stamp shall be understood to be this identification.

## **Logbook**

Each device shall have a logbook to record all activities related to video devices and records. The activities include all information regarding the use, maintenance, and storage of records and all instances of access to, and use of, recorded material. All logbook entries will detail authorized staff, date, time, and activity. This logbook must remain in a safe and secure location with the video recording equipment. Only the CAO is authorized to remove this logbook from the secure location.

## **Access to Records**

Access to the video surveillance records, e.g. remote access using the internet, logbook entries, etc., shall be restricted to authorized personnel in order to comply with their roles and responsibilities as outlined in the Video Surveillance Policy.

Any staff accessing records should sign a written agreement to adhere to this policy, including an undertaking of confidentiality.

## **Storage**

All storage devices that are not in use must be stored securely in a locked receptacle located in an access-controlled area.

## **Formal Access Requests Process**

With exception of requests by law enforcement agencies, all requests for video records should be directed to the CAO at the Municipal Office – 22413 Hoskins Line, Rodney ON N0L 2C0 for processing.

A person requesting access to a record should make a request in writing either in the form of a letter or the prescribed form and submit it to the Municipal Office. This form is available at our offices and on the Municipal website.

The individual requesting the record must:

- Provide sufficient detail (the approximate time and date, the location - if known - of the incident, etc.) to enable an experienced employee, upon a reasonable effort, to identify the record; and,
- At the time of making the request, pay the prescribed fees as provided for under the Act.

## **9. Access: Law Enforcement**

If access to a video surveillance record is required for the purpose of a law enforcement investigation, the requesting Officer must complete the Law Enforcement Officer Request Form (See Appendix #1) and forward this form to the CAO.

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 Municipality with a warrant requiring the disclosure of the footage, as per section 42(1)(e) of FIPPA and section 32(e) of MFIPPA,
- the law enforcement agency approaches the Municipality, without a warrant, and requests the disclosure of footage to aid an investigation from which a proceeding is likely to result, as per section 42(1)(g) of FIPPA and section 32(g) of MFIPPA, or
- staff observe an illegal activity on Municipality property and disclose the footage to a law enforcement agency to aid an investigation from which a proceeding is likely to result, as per section 42(1)(g) of FIPPA and section 32(g) of MFIPPA.

Staff will provide the recording for the specified date and time of the incident as requested by the Law Enforcement Officer and record the following information in the facility's video logbook:

- the date and time of the original, recorded incident including the designated name/number of the applicable camera and DVR;
- the time and date the copy of the original record was sealed;
- the time and date the sealed record was provided to the requesting Officer;
- the case file number of the agency's investigation,
- 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

- if the record will be returned or destroyed after use by the Law Enforcement Agency.

This must only be completed by an individual(s) authorized in a private, controlled area that is not accessible to other staff and/or visitors.

In order to protect privacy, the Municipality will, whenever possible, strongly encrypt video surveillance footage when transmitted across open, public networks, and store physical records of footage, such as discs, memory cards or servers, in a locked facility.

## **10. Custody, Control, Retention, Disposal of Video Records/Recordings**

The Municipality retains custody and control of all original video records not provided to law enforcement.

Video records are subject to the access and privacy requirements of the MFIPPA, which includes but is not limited to the prohibition of all Staff from access or use of information from the video surveillance system, its components, files, or database for personal reasons.

With the exception of records retained for criminal, safety, or security investigations or evidentiary purposes, or as otherwise required by law, the Municipality must not maintain a copy of recordings for longer than 30 days. Any records that are accessed or disclosed will be retained for one year, as per Regulation 460 of FIPPA and Section 5 of Regulation 823 of MFIPPA.

The Municipality will take all reasonable efforts to ensure the security of records in its control/custody and ensure their safe and secure disposal.

Old storage devices must be disposed of in accordance with an applicable technology disposal process ensuring personal information is erased prior to disposal and cannot be retrieved or reconstructed. Disposal methods may include shredding, burning, or erasing, depending on the type of storage device.

## **11. Unauthorized Access and/or Disclosure (Privacy Breach)**

Staff who become aware of any unauthorized disclosure of a video record in contravention of this Policy and/or a potential privacy breach are to immediately notify the CAO. The following procedure will be followed when an unauthorized disclosure or potential privacy breach is reported:

- The CAO upon confirmation of the existence of a privacy breach, shall notify the Information and Privacy Officer of Ontario (IPO) and work



- constructively with the IPC staff to mitigate the extent of the privacy breach and to review the adequacy of privacy protection with the existing policy.
- The staff member shall work with the CAO to take all reasonable actions to recover the record and limit the record's disclosure.
- The CAO will notify affected parties whose personal information was inappropriately disclosed.
- The CAO shall investigate the cause of the disclosure with the goal of eliminating potential future occurrences.

Intentional wrongful disclosure or disclosure caused by negligence by employees may result in disciplinary action up to and including dismissal. Intentional wrongful disclosure or disclosure caused by negligence by service providers (contractors) may result in termination of their contract.

## **12. Inquiries from the Public Related to the Video Surveillance Policy**

A staff member receiving an inquiry from the public regarding the Video Surveillance Policy shall direct the inquiry to the CAO.

## **13. Review of Video Surveillance Policy**

This policy shall be reviewed every 2 (two) years by the CAO who will forward recommendations for update, if any, to Council for approval.

## Appendix 1 - Law Enforcement Officer Request Form

RELEASE OF RECORD TO LAW ENFORCEMENT AGENCY  
UNDER SECTION 32(g) OF THE  
MUNICIPAL FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

I, \_\_\_\_\_, of the \_\_\_\_\_  
(print name of officer) (print name of police force)

request a copy of the following record(s):

- 1.
- 2.
- 3.

containing the personal information of \_\_\_\_\_  
(print name(s) of individual(s))

to aid an investigation undertaken with a view to a law enforcement proceeding or from  
which a law enforcement proceeding is likely to result.

Signature of Officer	Badge/Identification No.	Date
_____	_____	_____

Signature of Clerk	Date
_____	_____

Return all completed ORIGINAL forms to:

The Municipal Clerk at 22413 Hoskins Line, Rodney ON N0L 2C0