

---

**Subject:** Records Retention By-law and Schedule

**Report to:** Corporate Services Committee

**Report date:** Wednesday, August 9, 2023

---

## Recommendations

1. That the draft Records Retention By-law (Appendix 1 of Report CLK 6-2023) **BE APPROVED**;
2. That By-law 2013-063 being the Records Retention By-law **BE REPEALED**; and
3. That the necessary By-law **BE PREPARED** and **PRESENTED** to Council.

## Key Facts

- The purpose of this report is to seek Council's approval of an updated Records Retention By-law.
- This proposed by-law update will delegate authority to establish retention periods to the Regional Clerk.
- The proposed update arose as a result of feedback received from stakeholders within the Corporation's various business units.
- The pace of the growth in new types of information throughout the course of regular business exceeds our capacity to update the by-law through the usual administrative processes. This renders gaps in the records retention schedule for new types of records in the custody or control of Niagara Region.
- Delegating the authority to establish retention periods to the Regional Clerk streamlines the process by enabling responsive amendments to reflect new operational or legislative requirements.
- Operational requirements for retention will continue to be determined in consultation with Niagara Region staff.
- Several municipalities throughout Ontario have delegated this amendment authority to their respective clerks, including the City of Brantford, Town of Caledon, Grey County, and Haldimand County, and more are considering similar amendments.

## Financial Considerations

There are no financial considerations associated with this report.

## **Analysis**

A record is information created, received, maintained, and retained by an organization that provides evidence of business activities and decisions, regardless of format. Records management is the practice of maintaining records of an organization through their lifecycle from creation to destruction or permanent retention. It includes identifying, classifying, storing, securing, retrieving, tracking, and destroying or permanently preserving records. Records management ensures compliance with operational and legislative requirements regarding the use, retention, and disposition of records.

Municipalities are responsible for complying with records management provisions in various legislation, including the Municipal Act (2001) and the Municipal Freedom of Information and Protection of Privacy Act (1990). Both the Municipal Act and the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) contain provisions to ensure that records management activities are properly developed and documented, that the records themselves are managed appropriately, that appropriate retention periods are established and that records are not kept too long to become a privacy risk. Protection of privacy and personal information is paramount. Specifically, MFIPPA includes that records should be disposed of once the purpose for collecting personal information has been fulfilled, unless required by law to be retained.

The purpose of the Records Retention By-law is to define a set of retention practices by which Niagara Region manages corporate records, both paper and electronic, to ensure their control and disposition. It provides an overview of the management of corporate records to ensure regulatory, legislative, and operational compliance.

The Records Retention Schedule (Schedule "A") is a system for classifying and retaining all corporate records based upon Niagara Region business activities and legislative responsibilities. It guides the classification, retention, and destruction of corporate records in the custody or control of Niagara Region and is integral to the by-law. It applies equally to paper and electronic records.

Schedule "A" groups corporate records into categories based on business function and activity. Corporate records must be classified in accordance with the relevant category or "code" in the retention schedule that reflects the content of the record in question. These codes indicate how long records should be kept (retention), and whether they will be destroyed at the end of that retention period (disposition). Each code in the schedule includes a listing of all types of documents that are included within the category.

Retention lengths and disposition actions are determined based on information gathered from several sources including legislation, ministry policies and directives, industry and association standards, business analysis, and consultation with Niagara Region staff.

The scale of Niagara Region's business means that the corporation frequently encounters new types of corporate records during regular operations. The growth of business conducted electronically has also brought an increase in new types of records produced through those business activities. One example of such a record is the screening forms used to protect health and safety at Regional facilities during COVID-19. The need for these forms arose overnight, the forms were produced in significant volume across numerous departments, and "Schedule A" did not provide a clear decision regarding retention of these records. This example shows how the pace of growth in new types of information can exceed our ability to update the by-law through the current process, resulting in gaps in Schedule "A" for new types of records that are in the custody of Niagara Region. This expansion in both the diversity of content and the sheer volume of information means that the current by-law falls short in classifying all possible corporate records.

The current amendment process renders the by-law inflexible in its ability to capture shifting retention requirements from legislation or operational needs. This prevents the by-law from accurately reflecting retention and disposition requirements for corporate records.

The inability to include new examples of content in the schedule's text also makes it an ineffective tool for communicating retention requirements, as business users cannot simply reference the schedule to figure out how to classify their records, relying instead on a patchwork of ad-hoc guidance and correspondence.

In consultation with stakeholders in the business, it has become apparent that there is a need to increase responsiveness to their operational requirements by more readily enabling changes or additions to the Records Retention Schedule (Schedule "A"). By delegating sign-off to the Regional Clerk to authorize adjustments to Schedule "A", the records management program is better positioned to respond to the needs of the business. Stakeholders within the Corporation's various business units were consulted throughout this process and the feedback has been overwhelmingly positive. No concerns were raised.

The proposed changes will therefore streamline the service delivery of the records management program by increasing its responsiveness to the operational requirements of the business with respect to the classification of information.

### **Alternatives Reviewed**

Council may choose to not approve this draft By-law as presented. This is not recommended given the current By-law is 10 years old, and feedback from stakeholders expressing the need for a more responsive approach to managing updates to the retention schedule based on the scale and scope of the corporation's business activities.

### **Relationship to Council Strategic Priorities**

The recommendations in this report align with Council's Strategic Priority of an Effective Region through demonstration of continuous improvement and modernized processes.

### **Other Pertinent Reports**

N/A

---

#### **Prepared and Recommended by:**

Ann-Marie Norio  
Regional Clerk

---

#### **Submitted by:**

Ron Tripp, P. Eng.  
Chief Administrative Officer

This report was prepared in consultation with S. Hannell, Manager, Records and Information Management Services, and reviewed by A.-M. Norio, Regional Clerk, M. Antidormi, Access and Privacy Advisor, Dr. Azim Kasmani, Commissioner, Public Health, Dr. M. Hirji, Associate Medical Officer of Health, A. Jugley, Commissioner Community Services, D. Gibbs, Director, Legal and Court Services, D. Carnegie, Commissioner, Public Works, T. Harrison, Commissioner, Corporate Services, and M. Sergi, Commissioner, Growth Strategy and Economic Development.

## **Appendices**

Appendix 1 Draft Records Retention By-law

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO.

A BY-LAW TO PROVIDE FOR THE CLASSIFICATION,  
RETENTION AND DESTRUCTION OF RECORDS OF  
THE REGIONAL CORPORATION AND TO REPEAL  
BY-LAW 63-2013

---

WHEREAS Section 254 of the *Municipal Act, 2001*, S.O. 2001, Chapter 25, as amended, requires municipalities to retain and preserve the records of the municipality and its local boards in a secure and accessible manner;

WHEREAS Section 255 of the *Municipal Act, 2001*, S.O. 2001, Chapter 25, as amended, permits municipalities and its local boards to destroy records if a retention period for the record has been established under this section and the retention period has expired or the record is a copy of the original record;

WHEREAS the Council of the Regional Municipality of Niagara deems it expedient to retain, preserve and destroy municipal records;

WHEREAS the Council of the Regional Municipality of Niagara deems it desirable to provide the Regional Clerk the ability, subject to the provisions of this by-law, to update the Records Retention Schedule from time to time without amendment to this by-law, for the purpose of effective and efficient management of municipal records;

NOW THEREFORE BE IT RESOLVED THAT the Council of the Regional Municipality of Niagara enacts as follows:

1. DEFINITIONS

In this by-law:

- (a) "Active" describes the status of records that are required by a department or division on a regular basis;
- (b) "Corporation" means The Regional Municipality of Niagara;
- (c) "Current" records were created in the current calendar year;
- (d) "Department Head" means the functioning leader of a Department, usually a Commissioner or Director;
- (e) "Destruction" is a disposition action that results in the permanent deletion of a record, regardless of format or medium. Records containing personal information must be destroyed in accordance with any regulations established under S.30(4) of MFIPPA (Municipal Freedom of Information and Protection of Privacy Act);

- (f) “Disposition” is the final stage in the records life cycle, whether it be permanent retention or destruction;
- (g) “Inactive” describes the status of records that are no longer referred to on a regular basis, but must be retained for operational or legal reasons;
- (h) “Office of Primary Responsibility” refers to the departmental division that has primary responsibility and control of a particular group or type of records, typically being the division where records were initially created or received;
- (i) “Permanent Retention” is a disposition action that preserves a record and prohibits its destruction;
- (j) “Record” means information however recorded or stored, whether in printed form, film, by electronic means or otherwise, and includes documents, financial statements, minutes, accounts, correspondence, memoranda, plans, maps, drawings, photographs, and films;
- (k) “Records Contact” is a role designated by the Responsible Officer for the purposes of facilitating communication between Information Management Services and staff across the corporation;
- (l) “Responsible Officer” is responsible for the records under the care and control of a particular departmental division. Typically, the Responsible Officer is the Divisional Director or designate with signing authority;
- (m) “Retention Period” refers to the length of time records are kept;
- (n) “Transitory Records” are records of a temporary nature regardless of format, typically required for a brief time to ensure the completion of a routine action;
- (o) “Trigger” refers to a wide range of circumstances that change the status of records and information from active to inactive.

## 2. DUTIES AND RESPONSIBILITIES OF THE RESPONSIBLE OFFICER

- (a) The Responsible Officer shall be the Divisional Director and confirmation of this role shall be forwarded to the Manager, Information Management Services. The Director shall also forward the name of a designate Responsible Officer in the event of the Director’s absence or unavailability. Should the name of the Responsible Officer change it is the Director’s responsibility to notify the Manager, Information Management Services accordingly;
- (b) The Responsible Officer shall be aware of where all current records and information are stored in his/her division, regardless of format;
- (c) The Responsible Officer shall oversee and be responsible for preparing records for transfer to the third-party storage provider, in partnership with Information Management Services staff;

- (d) The Responsible Officer shall review and approve the destruction of records that have reached their scheduled disposition date. If destruction sign-off is not provided, the Responsible Officer shall provide written justification for the request to extend destruction dates;
- (e) Beyond the Responsible Officer role, all Niagara Region employees who create, use, or maintain corporate records are responsible for contributing to the effective management of those materials.

### 3. CLASSIFICATION AND RETENTION SCHEDULE

- a. That the Records Retention Schedule, attached hereto as Schedule “A” to this by-law be and is hereby approved and authorized;
- b. The Corporation will classify, retain, and destroy records in accordance with this by-law;
- c. Inactive physical records may be stored with Niagara Region’s third-party storage provider;
- d. Inactive electronic records may be stored in databases, shared drives, servers, or SharePoint sites. Records classifications in the Records Retention Schedule (Schedule A) apply equally to paper and electronic inactive records;
- e. The Regional Clerk and the Manager, Information Management Services, shall administer the appropriate standard for classification of Records, considering the legal, financial, administrative, operational, and historic values of each Record, and shall monitor the Retention Schedule for compliance with legislative requirements. Where there is no legislative mandate for retention, best practices in combination with staff, Responsible Officers, and/or outside consultation, shall be followed;
- f. The Retention Schedule set out in “Schedule A” to this by-law may be adjusted from time to time without amendment to this by-law by the Regional Clerk in accordance with subsection 3.

### 4. REPEAL OF BY-LAW

- a. That By-law 63-2013 and its associated Schedule A is hereby repealed.

### 5. RELATED CORPORATE POLICIES

- a. That this by-law is in accordance with and reinforces the following Niagara Region corporate policies:

C-IMT-001 Archival Acquisition



- C-IMT-006 Legal Holds eDiscovery
- C-IMT-008 Records and Information Management
- C-IMT-016 Access to Information and Privacy Protection
- C-IMT-017 Personal Health Information Protection Policy
- C-IMT-018 Information Management Accountability Policy

6. APPROVALS

That this by-law shall come into force and effect on the day upon which it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

---

James Bradley, Regional Chair

---

Ann-Marie Norio, Regional Clerk

Passed: < >