

BY-LAW NUMBER 41-2016

OF

THE REGIONAL MUNICIPALITY OF DURHAM

BEING a by-law to establish retention periods for records of The Regional Municipality of Durham

WHEREAS Subsection 254(1) of the Municipal Act, 2001 (the "Act") provides that a municipality shall retain and preserve the records of the municipality and its local boards in a secure and accessible manner and, if a local board is a local board of more than one municipality, the affected municipalities are jointly responsible for complying with this subsection. 2001, c. 25, s. 254(1);

WHEREAS Subsection 255(1) of the Municipal Act, 2001, S.O. 2001, c.25 (the "Act"), as amended provides that except as otherwise provided, a record of a municipality or local board may only be destroyed in accordance with this section. 2001, c. 25, s. 255 (1);

WHEREAS Subsection 255(2) of the Act states that despite Section 254, a record of a municipality or a local board may be destroyed if a retention period for the record has been established under this section and, a) the retention period has expired; or b) the record is a copy of the original record. 2001, c. 25, s. 255 (2); 2006, c. 32, Sched. A, s. 109 (1); and

WHEREAS in accordance with Subsection 255(3) 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 section 254. 2001, c. 25, s. 255 (3).

NOW, THEREFORE, BE IT ENACTED AND IT IS HEREBY ENACTED as a by-law of The Regional Municipality of Durham through its Council thereof as follows:

1. Definitions:

1.1 In this by-law:

- A) "active record" means a record that is referred to frequently and is commonly stored in the office area within departments;
- B) "archival record" means a record of enduring cultural, historical and evidentiary value that is permanently maintained;
- C) "archives" means a repository of archival records;
- D) "copy" means records retained for information purposes only and may be destroyed after use;
- E) "corporate classification scheme" means a systematic method of coding and categorizing records into subject groups;
- F) "disposition" means the final phase of a record's life cycle, either destruction or permanent preservation;
- G) "inactive record" means a record that is referenced infrequently but must be maintained for administrative needs or legal compliance;
- H) "life cycle" means the life span of a record from its creation or receipt through to its preservation or final disposition;

- I) “Manager, Records and Information Management (RIM) means the Region’s Manager of Records and Information Management, or his or her designate;
- J) “metadata” means data that describes other data and is used to aid the identification, description, location or use of information systems, resources and elements;
- K) “Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)” means Ontario legislation which, with some limitations, provides the public with right of access to records held by the Region and protects the privacy of personal information;
- L) “official copy” means the version of a regional record deemed as the master record which is not a convenience or duplicate copy;
- M) “official record holder” means the Regional department/division with primary responsibility for retaining official records;
- N) “official record” means a record in the Region’s custody or control that supports regional business such as program delivery or policy development, documents the result of a decision, certifies a transaction, commits the Region to an action, becomes a receipt or provides evidence and is required to support a financial, operational or legal audit;
- O) “personal information” means recorded information about an identifiable individual, including the following 8 things:
- (1) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual;
 - (2) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;
 - (3) any identifying number, symbol or other particular assigned to the individual;
 - (4) the address, telephone number, fingerprints or blood type of the individual;
 - (5) the personal opinions or views of the individual except if they relate to another individual;
 - (6) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence;
 - (7) the views or opinions of another individual about the individual; and
 - (8) the individual’s name if it appears with other personal information relating to the individual or where disclosure of the name would reveal other personal information about the individual.
- P) “Personal Health Information Protection Act (PHIPA) means an Ontario law that governs the collection, use and disclosure of personal health information within the health sector;
- Q) “record” means any record of information, including a transitory record, however recorded, whether in printed form, on film, by electronic means or otherwise, and includes:

- (1) correspondence, a memorandum, a book, a plan, a map, a drawing, a diagram, a pictorial or graphic work, a photograph, a film, a microfilm, a sound recording, a videotape, a machine readable record (metadata), any other documentary material, regardless of physical form or characteristics, and any copy thereof; and
 - (2) subject to any regulations (made under the Municipal Freedom of Information and Protection of Privacy Act), any record that is capable of being produced from a machine readable record under the control of an institution (the Region) by means of computer hardware and software or any other information storage equipment and technical expertise normally used by the institution (ordinarily used by the Region);
- R) “record series” means a group of related records categorized as a unit for the purposes of establishing classification efficiencies and applying retention controls;
- S) “records management” means the process of planning, organizing, directing and controlling all the steps involved in a records life cycle;
- T) “retention schedule” means the schedule prescribing retention periods for records as set out in Schedule “A” to this by-law;
- U) “signing authority” means the department head or Commissioner of the responsible department, or his or her designate; and
- V) “transitory record” means a record that is required for a limited time to complete a routine action, is used in the preparation of final records, or is retained as information or a convenience copy by offices or individuals who do not have the primary responsibility for them.

2. Corporate Classification Scheme

- 2.1 The Corporate Classification Scheme as set forth on Schedule “A” attached to this by-law is hereby approved as the classification scheme for the records as described therein.
- 2.2 The Corporate Classification Scheme as set forth on Schedule “A” attached to this by-law is hereby approved as the schedule establishing the retention periods and destruction schedule for the records as described therein.

3. Records Management Procedures

- 3.1 The procedures for the management of records will be as set forth in Schedule “B” attached to this by-law.

4. Repealed

- 4.1 By-law Number 34-2014 is hereby repealed.

5. Schedules

- 5.1 Schedule “A” forms part of this by-law.
- 5.2 Schedule “B” forms part of this by-law.

This by-law comes into effect upon its approval by the auditor for The Regional Municipality of Durham.

BY-LAW read and passed this 14th day of September, 2016.

R. Anderson, Regional Chair and CEO D. Wilcox, Regional Clerk/Director of
Legislative Services

By-law Number 41-2016 of The Regional Municipality of Durham is hereby approved by
the auditor for The Regional Municipality of Durham this _____ day of _____, 2016.

Per:

Deloitte & Touche

If you require a copy of Schedule "A" or "B" please contact extension 2023.