

**Minute No. 109**

**Report – Executive Policy Committee – December 9, 2020**

**Item No. 17                      Records Management By-law**

**COUNCIL DECISION:**

Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1.        That a new Records Management By-law (draft attached), which will replace the Records Management By-law No. 86/2010 and will come into force on January 1, 2021, be enacted.
2.        That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

**Report – Executive Policy Committee – December 9, 2020**

## DECISION MAKING HISTORY:

Moved by His Worship Mayor Bowman,

That the recommendation of the Executive Policy Committee be adopted  
by consent.

His Worship Mayor Bowman called for the yeas and nays, which were as  
follows:

Yea: His Worship Mayor Bowman, Councillors Allard, Browaty,  
Chambers, Eadie, Gillingham, Gilroy, Klein, Lukes, Mayes, Nason, Orlikow, Rollins, Santos,  
and Schreyer 15

Nay: Councillor Sharma 1

and the motion for adoption of the item was declared carried.

## EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On December 9, 2020, the Executive Policy Committee concurred in the recommendation of the  
Winnipeg Public Service and submitted the matter to Council.

**ADMINISTRATIVE REPORT**

**Title:** Records Management By-law

**Critical Path:** Executive Policy Committee – Council

**AUTHORIZATION**

| Author   | Department Head | CFO | CAO                     |
|----------|-----------------|-----|-------------------------|
| K. Krahn | M. Lemoine      | N/A | M. Ruta,<br>Interim CAO |

**EXECUTIVE SUMMARY**

The City of Winnipeg Charter requires that “Council must pass a by-law providing for the management, retention, safekeeping, disposition and destruction of records”. Previous versions of the Records Management By-law, including the existing one, contain lengthy schedules setting out the various categories of records created by the Public Service and setting out time tables for their destruction. Including these in the by-law itself made it extremely difficult to keep up with changes to the categories of records being generated by the Public Service; something as simple as a change of someone’s title or job description, the addition of a new function or a small reorganization within an administrative unit would require a by-law amendment. The adoption of new information technologies has only added to this problem.

The proposed new Records Management By-law (draft attached) adopts a new approach. By delegating the function of creating and approving a records management system to the City Archivist and the Records Committee, the proposed by-law will make it much easier for the system to keep up with any changes to records being created and will help to ensure that the records management system is responsive to the needs of the City.

**RECOMMENDATIONS**

1. That Council enact a new Records Management By-law (draft attached) which will replace the Records Management By-law No. 86/2010 and will come into force on January 1, 2021.
2. That the proper officers of the City do all things necessary to implement the intent of the foregoing.

**REASON FOR THE REPORT**

Section 109 of the City of Winnipeg Charter states that Council must pass a by-law providing for the management, retention, safekeeping, disposition and destruction of records.

Section 110(2)(b) states that the Records Committee shall make recommendations to Council, and implement policies and procedures approved by Council, for the management, retention, safekeeping, disposition and destruction of records.

The Records Committee has endorsed the draft new Records Management By-law (attached) as a means of ensuring flexible and agile records management rules and practices that keep pace with changes in administrative structures, regulatory requirements, and information technologies.

**IMPLICATIONS OF THE RECOMMENDATIONS**

Approval of the proposed by-law will make it much easier for the system to keep up with any changes to records being created and will help to ensure that the records management system is responsive to the needs of the City.

**HISTORY/DISCUSSION**

The City of Winnipeg Charter, and before it, The City of Winnipeg Act, requires the City to pass a by-law for the management, retention, safekeeping, disposition and destruction of records. The City has had such a by-law in place since 1975. By-law 937/75 contained five schedules and guidelines for the “safe-keeping and destruction of documents”. Its replacement, By-law 6875/96, reduced the number of schedules to two - “temporary” and “permanent” records. Those records identified as temporary had designated retention periods ranging from 2 to 20 years. This By-law was in turn repealed by By-law 8150/2002 on December 11, 2002, which was repealed by By-law 166/2003 on December 17, 2003, which was repealed by By-law No. 86/2010 on July 21, 2010.

The Charter specifically requires the designation of an employee as the City Archivist, who must establish and administer a system of records management to serve the current and long-term requirements and interests of the City, as well as to perform other duties and functions and exercise such other powers as may be assigned by Council. The Charter also establishes a Records Committee, composed of the City Archivist and other such individuals, which may make recommendations to Council, and to implement policies and procedures approved by Council, for the management, retention, safekeeping, disposition, and destruction of records.

In its current form, By-law No. 86/2010 contains over 400 distinct records retention schedules. Continuous changes to administrative structures, regulatory requirements, and information technologies have resulted in records management rules and practices which are out of date and do not reflect current fiscal, legal, and operational requirements. Maintaining current,

accurate, and appropriate retention schedules in the Records Management By-law in this environment is no longer practicable.

The Records Committee, chaired by the City Archivist and composed of the Chief Administrative Officer, the City Clerk, the Chief Financial Officer, the City Auditor, the Director of Innovation and Technology Services, City Solicitor, and 2 citizen members, has the skills and expertise to review and approve retention schedules that meet the City's legal, operational, and ethical requirements more regularly and more efficiently.

Although the approach proposed under the revised Records Management By-law is a significant departure from the current practice, it is consistent with other jurisdictional models, including The City of Vancouver (Records Committee reviews and approves retention schedules), the City of Edmonton (City Manager is responsible), the City of Calgary (City Clerk is responsible), the Province of Manitoba (Provincial Archivist is responsible).

In order to ensure a smooth transition, the Records Committee, has already moved a motion to continue the records listed and described in Schedules "B" and "C" of Records Management By-law 86/2010 in force until such time as a new records management system has been established under the proposed new Records Management By-law. In the interest of continued transparency, these retention schedules, along with any future revisions, will be published on the City Clerk's Department website or similarly publicly accessible location.

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| <b>FINANCIAL IMPACT</b> |
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**Financial Impact Statement** Date:

November 13, 2020

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**Project Name:**

**Records Management By-law NO. 86/2010**

**COMMENTS:**

There are no financial implications associated with the recommendation in this report.

*Electronically signed by T. Yanchishyn*

Tanis Yanchishyn

Manager of Finance (Campus)

Corporate Finance Department

**CONSULTATION**

This Report has been prepared in consultation with:

City of Winnipeg Records Committee

City Departmental Staff, including:

- Office of the CAO
- Office of the CFO
- Legal Services
- Audit

**OURWINNIPEG POLICY ALIGNMENT**

5.9 Heritage Conservation

1.5 Evidence-Informed Decisions

**WINNIPEG CLIMATE ACTION PLAN ALIGNMENT**

N/A

**SUBMITTED BY**

Department: City Clerk's Department  
Division: Archives and Records Control  
Prepared by: Konrad Krahn  
Date: November 16, 2020  
File No:

Attachments:

By-law No. \_\_\_\_/\_\_\_\_

**THE CITY OF WINNIPEG**

**RECORDS MANAGEMENT BY-LAW NO. \_\_\_\_ / \_\_\_\_**

**A By-law of THE CITY OF WINNIPEG to provide for the management, retention, safekeeping, disposition and destruction of records.**

**WHEREAS** *The City of Winnipeg Charter*, S.M. 2002, c.39, requires Council to pass a by-law for the management, retention, safekeeping, disposition and destruction of records;

**NOW THEREFORE THE CITY OF WINNIPEG**, in Council assembled, enacts as follows:

**Title**

1. This By-law may be referred to as the **"Records Management By-law"**.

**Definitions and Interpretation**

2. In this By-law:

**"archival City records"** are City records that have archival value.

**"archival value"**, in relation to a record, means that the record warrants continued preservation because of its significant or enduring historical, administrative, fiscal, legal or other worth, as determined by the City Archivist.

**"City Archivist"** means the employee designated under subsection 110(1) of *The City of Winnipeg Charter*.

**"City record"** means a record created or received by or for the City in carrying out its activities, transactions and decisions and does not include

- (a) a personal record of a member of council or of a City employee;
- (b) a record made by or for a member of council relating to constituency matters;
- (c) artifacts;
- (d) library materials which are available for borrowing or reference by the public;
- (e) records of archival value received or acquired from a person or organization.

**"Council"** means the council of the City of Winnipeg continued by *The City of Winnipeg Charter*;

**"destruction"** means the deletion or extinguishment of records, beyond any possible reconstruction.

**"disposition"**, in relation to a record, means its transfer or other parting by the City with its possession, custody or control.

**"electronic form"**, in relation to a record, means created, recorded, transmitted or stored in



digital or other intangible form by electronic, magnetic or optical systems, or other systems that may exist as technology develops;

**"member of council"** means a City councillor or the mayor of the City.

**"non-City record"** means any record that is not a City record.

**"non-transitory City record"** means any City record that is not a transitory City record.

**"person"** includes a firm, partnership, association or other body, whether incorporated or unincorporated;

**"record"** means information or data created, recorded, transmitted or stored in any tangible or intangible form, including electronic form, and includes part of a record or a copy of a record, but does not include a mechanism or system for generating, sending, receiving, storing or otherwise processing records.

**"Records Committee"** means the committee appointed under subsection 110(2) of *The City of Winnipeg Charter*.

**"records management system"** means a comprehensive set of processes, methods, procedures, standards and practices to identify, classify, retain, preserve, convert, store, dispose of and destroy records.

**"transitory City record"** means a City record that conveys information of a temporary or insignificant value and is not required to meet statutory obligations or support administrative or operational functions.

### **Records Management Principles**

3. A records management system that supports accountable and effective City administration within a budget approved by Council shall be established and maintained. The records management system must be capable of being modified as and when necessary or desirable to adapt to changes in City functions or operations. The records management system must comply with all applicable legislation.

4. Records shall be collected, maintained, retained, preserved, converted, stored, disposed of, destroyed or otherwise dealt with in accordance with the records management system.

5. All records must be classified as City records or non-City records. All City records must be classified as transitory City records or non-transitory City records. Other classes or groupings for records may be created and delineated in the records management system.

6. The records management system shall include guidance and direction on the classification of records, requisite or appropriate retention periods, the conversion of records from one form into another, and their destruction, transfer to City archives or other disposition after expiry of their respective retention periods. As a general rule, City archival records shall have the longest retention periods and transitory City records shall have the shortest. Detailed information about the record

management system shall be published by the City archives.

7. If the City ceases to carry out an activity, function or operation and another person or organization becomes responsible for so doing, City records required for such activity, function or operation may be transferred to the person or organization.

8. City records that have or potentially have archival value must be transferred to the City archives. Archival City records must be preserved in the City archives except if they have deteriorated beyond a point of reasonable conservation. Records that have deteriorated beyond a point of reasonable conservation efforts may be destroyed. Records of no archival value may be destroyed after expiry of the requisite retention period, if any, set out for them in the records management system or at any time if no retention period has been specified. City records may be transferred to another person or organization after expiry of the requisite retention period if they would be more appropriately held or preserved by the other person or organization. Non-City records of archival value in the custody of the City Archives may be transferred to another person or organization if they would be more appropriately held or preserved by the other person or organization.

9. City records must not be destroyed or removed from the custody or control of the City unless destruction or removal is permitted under this by-law.

### **Records Committee**

10. The following individuals collectively constitute the Records Committee:

- (a) City Archivist;
- (b) City Clerk, or representative designated by the Clerk;
- (c) Chief Administrative Officer, or representative designated by the Officer;
- (d) Chief Financial Officer, or representative designated by the Officer;
- (e) City Auditor, or representative designated by the Auditor;
- (e) Director of Innovation and Technology Services, or representative designated by the Officer;
- (f) City Solicitor, or representative designated by the Solicitor;
- (g) those individuals, if any, appointed under section 12 below.

11. If the title of an office set out in section 10 should be changed or the office itself be eliminated, the Records Committee shall identify and record the title of the office that is the successor to the responsibilities of the changed or eliminated office, and the individual holding such office shall thereafter be a member of the Records Committee.

12. The Records Committee members identified in clauses 10(a) to 10(f) inclusive are hereby authorized to appoint up to two individuals to the records committee, at any time and from time-to-time and for such period as they consider appropriate, to provide complementary or supplementary expertise or representation.

13. The Records Committee shall

- (a) develop and approve records management policies or procedures and agreements consistent with the records management principles set out in this By-law, and oversee

- their implementation;
  - (b) oversee the establishment and administration of the records management system by the City Archivist;
  - (c) approve and specify the date on which a records management policy or procedure, record classification, record retention, disposition and destruction schedule, decision, directive or approval of the records committee or of the City Archivist, or any other aspect of the records management system is, or is to become, effective; and
  - (d) report to Council annually.
14. The Records Committee may:
- (a) recommend records management policies or procedures to Council for approval;
  - (b) issue, or authorize the City Archivist to issue, directives not inconsistent with this by-law or policies or procedures approved the Records Committee or Council concerning records management or any aspect of records management;
  - (c) approve the destruction or removal of a record, if the destruction or removal of the record is not governed by an existing records policy, procedure, directive or authorization;
  - (d) authorize the City Archivist to enter into an agreement with a person or organization to receive or acquire and hold their records of archival value on terms or conditions set out in the agreement, so long as such terms or conditions do not constrain the authority contained in clause (e);
  - (e) authorize the City Archivist to enter into an agreement with a person or organization to transfer non-City records of archival value in the custody of the City Archives to the person or organization if the committee considers that the records would be more appropriately held or preserved by the such person or organization;
  - (f) authorize the City Archivist to enter into an agreement with a person or organization to transfer City records after expiry of the requisite retention period if they would be more appropriately held or preserved by the other person or organization;
  - (g) subject to this By-law, make rules on when, where and how often it will meet, how it will govern itself and make decisions, length of terms of members appointed under section 12 (if any), and any other matters necessary to carry out its mandate.

### **Role, Responsibility and Authority of City Archivist**

15. The City Archivist is responsible for establishing and administering the records management system in a manner that is consistent with applicable legislation, this by-law, policies or procedures approved by the Records Committee or Council concerning records management, and directives of the Records Committee. The records management system may prescribe such standards for the retention, preservation, storage, conversion or destruction of records as the City Archivist considers appropriate.

16. The City Archivist is authorized to assess or direct the assessment of all records as to their archival value or potential archival value, their condition or extent of deterioration or their appropriate custodians, as may be required to apply the records management principles set out in this By-law. The City Archivist is responsible for facilitating access to City records in accordance with any rights of access provided by law or by the terms or conditions of an agreement.

17. The City archives, which serves as a repository for archival City records, are under the direction of the City Archivist. The City Archivist is responsible for managing and preserving archival City records, for promoting, exhibiting, publishing or otherwise making such records known, and for facilitating access to them as is lawful and appropriate considering their content, nature or form.

18. The City Archivist shall serve as Chair of the records committee. The City Archivist shall carry out such other duties as the records committee may authorize or assign.

**By-law No. 86/2010 repealed**

19. The Records Management By-law No. 86/2010 is repealed.

**Coming into force**

20. This By-law comes into force on January 1, 2021.

**DONE AND PASSED** in Council assembled, this \_\_\_\_ day of \_\_\_\_\_, 2020.