

Authority: Administration Committee Report No. 14, Clause No. 20,
as adopted by City of Toronto Council on July 4, 5 and 6, 2000
Enacted by Council: October 5, 2000

CITY OF TORONTO

BY-LAW No. 635-2000

To amend By-law No. 780-1999, respecting the destruction of certain computer data records, to establish records retention periods for transitory and duplicate records.

WHEREAS subsection 116 (1) of the *Municipal Act* provides that a municipality shall not destroy any of its receipts, vouchers, instruments, rolls or other documents, records and papers except with the approval of the Ministry of Municipal Affairs and Housing or in accordance with a by-law passed by the municipality and approved by the auditor of the municipality establishing retention periods for such records and documents; and

WHEREAS subsection 116(6) of the *Municipal Act* provides that a by-law passed under this section may provide that a photographic copy of a receipt, voucher, instrument, roll or other document, record or paper shall be deemed to be the original thereof for the purposes of the by-law if the original has been destroyed in accordance with this section or the by-law;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. The title of By-law No. 780-1999, being a by-law “To authorize the destruction of certain computer data in the custody or control of the City of Toronto, despite the former municipalities’ record retention by-laws” is deleted and the following substituted:

“To establish records retention periods for transitory and duplicate records, and to authorize the destruction of certain computer data despite the former municipalities’ record retention by-laws”.

2. Section 1 of By-law No. 780-1999 is amended as follows:

(a) by adding the following definitions in alphabetical order:

“archival review period” means the period of time during which a qualified Archivist working under the direction of the Manager, Archival Services, conducts a systematic appraisal of records having potential archival value;

“archival value” means the evidential and informational value of records, which is determined during appraisal and justifies the records preservation as archives;

“City” means the City of Toronto incorporated by the *City of Toronto Act, 1997 (No. 1)*;

“former municipalities’ record retention by-laws” means the following by-laws:

- (a) former Borough of East York By-law No. 26-91, being a by-law “To establish schedules of retention periods for Municipal Records”, as amended;
- (b) former City of Etobicoke Municipal Code Chapter 28, Document Retention;
- (c) former Municipality of Metropolitan Toronto By-law No. 2561, being a by-law “To establish schedules of retention periods for records of the Municipality of Metropolitan Toronto”, as amended;
- (d) former Municipality of Metropolitan Toronto By-law No. 2696, being a by-law “To establish schedules of retention for local boards of The Municipality of Metropolitan Toronto”;
- (e) former City of North York By-law No. 27502, being a by-law “To establish a schedule of retention periods for records in the possession of the City of North York and the Hydro-Electric Commission of the City of North York”;
- (f) former City of Scarborough By-law No. 24987, being a by-law “To establish a schedule of retention periods for records in the possession of the City of Scarborough”;
- (g) former City of Toronto Municipal Code, Chapter 97, Records Retention; and
- (h) former City of York By-law No. 2371-76, being a by-law “To establish schedules of retention periods for municipal records”, as amended;

“record” means any unit of information however recorded, whether in printed form, on film, by electronic means or otherwise, and includes correspondence, memoranda, plans, maps, drawings, graphic works, photographs, film, microfilm, sound recordings, videotapes, machine readable records, and any other documentary material, regardless of physical form or characteristics, made or received in the course of the conduct of the affairs of the City, and retained by the City for the purposes of future reference;

“transitory record” means a record that is:

- (a) retained solely for convenience of reference;
- (b) required solely for the completion of a routine action, or the preparation of another record;

- (c) of insignificant or no value in documenting City business transactions;
 - (d) not an integral part of a City record;
 - (e) not filed regularly with records or filing systems;
 - (f) not required to meet statutory obligations or to sustain administrative or operational functions;
 - (g) about social events that are not special City events;
 - (h) not related to City business; or
 - (i) a voice mail message.
- (b) by amending clause (b) of the definition of “orphan data” as follows:
- (i) by deleting “employee of the City of Toronto” and substituting “City employee”; and
 - (ii) by deleting the period after “relates” and substituting a semicolon.
3. Section 2 of By-law No. 780-1999 is deleted and the following substituted:
2. Despite the former municipalities’ record retention by-laws, but subject to section 3, orphan data in the custody or control of the City may be destroyed on or after December 20, 1999.
4. By-law No. 780-1999 is amended by adding the following:
- 4.1. (1) Despite the former municipalities’ record retention by-laws and subject to the *Municipal Freedom of Information and Protection of Privacy Act*, this section applies to the retention of all transitory and duplicate records created or received by City employees.
- (2) A transitory record may be deleted or otherwise destroyed on the same day that the record was created or received.
- (3) A copy of a record may be destroyed at any time if the original is subject to a retention period established by one of the former municipalities’ record retention by-laws.
- (4) A micrographic copy of a record shall be deemed to be the original for the purposes of this by-law and the former municipalities’ record retention by-laws, and the records that have been microfilmed may be destroyed at any time, subject to section 4.2.

- (5) If a record is not a transitory record or a copy of a record, the record shall be retained or caused to be retained by the City employee for the applicable retention period for that type of record, as prescribed by one of the former municipalities' record retention by-laws.

- 4.2. (1) At the end of the archival review period, an original record that has been microfilmed:

- (a) shall be transferred to the custody and control of the Archives program operated by the City Clerk's Division if the original record possesses archival value; or
- (b) shall be destroyed if it does not possess archival value, and if there is no further business or legal requirement to retain the record.

- (2) The archival review period shall be deemed to end on the date that the Director, Corporate Records Systems and City Archivist certifies that the archival review is complete and the record has no archival value.

5. By-law No. 780-1999 is amended by deleting section 5 and substituting the following:

5. In the case of a conflict between this by-law and the record retention provisions of any by-law not listed in the definition of "former municipalities' record retention by-laws", this by-law prevails.

6. This by-law comes into force upon approval by the City Auditor.

ENACTED AND PASSED this 5th day of October, A.D. 2000.

CASE OOTES,
Deputy Mayor

NOVINA WONG,
City Clerk

(Corporate Seal)