

Authority: Executive Committee Item EX25.2, as adopted by City of Toronto Council on May 24, 25 and 26, 2017

CITY OF TORONTO

BY-LAW 552-2017

To amend City of Toronto Municipal Code Chapter 3, Accountability Officers, to clarify the applicability of records retention schedules to records of the Accountability Officers and to further authorize the implementation of separate records retention periods for investigatory records.

Whereas Council has appointed an Auditor General, Integrity Commissioner, Ombudsman and a Lobbyist Registrar under Part V, Accountability and Transparency, of the *City of Toronto Act, 2006*; and

Whereas Chapter 3 sets out the policy and administrative framework for these accountability officers consistent with their role as independent officers; and

Whereas under section 200 of the *City of Toronto Act, 2006* (the "Act") the City shall retain and preserve the records of the City and its local boards in a secure and accessible manner; and

Whereas under section 201 of the "Act" the City may, subject to the approval of the City auditor, establish retention periods during which the records of the City and its local boards must be retained and preserved; and

Whereas under section 201 of the "Act" the City may destroy a record of the City or a local board if an established retention period has expired or where the record is a copy of the original record; and

Whereas Council wishes to clarify the roles and responsibilities and applicability of records retention schedules contained in City of Toronto Municipal Code Chapter 217, Records, Corporate (City), for the records of the Accountability Officers; and

Whereas Council wishes to recognize and reaffirm the independent role of the accountability officers by clarifying the roles and responsibilities of the accountability officers and applicability of records retention schedules contained in City of Toronto Municipal Code Chapter 217, Records, Corporate (City) ("Chapter 217"), to the records of the accountability officers; and

Whereas Council wishes to recognize that the investigatory records of accountability officers shall be retained in accordance with a retention schedule, which will form a part of Toronto Municipal Code Chapter 3, Accountability Officers, and will remain separate and apart from the Chapter 217;

The Council of the City of Toronto enacts:

1. Toronto Municipal Code Chapter 3, Accountability Officers, is amended by adding the following as a new Article VI, Records Retention:

**ARTICLE VI
RECORDS RETENTION**

§ 3-38. Independent management of records.

An accountability officer manages information and records of their office in an independent manner. Nothing in this article shall be construed to limit or interfere with the independence of each officer, including without limitation, the independent management and retention of records for which the accountability officer is responsible.

§ 3-39. Definitions.

- A. The definitions contained in Chapter 217, Records, Corporate (City) Service are applicable to the terms as used in this article and in any schedule to this article.
- B. As used in this article, the following term shall have the meaning indicated:

ACCOUNTABILITY RECORD:

- (1) A record created by the accountability officer, or their delegate, in carrying out the duties and responsibilities of their office as set out in Part V of the Act, Chapter 3, Accountability Officers, and in the case of the Lobbyist Registrar, Chapter 140, Lobbying.
- (2) A record designated by an accountability officer as an accountability record pursuant to § 3-41A.

§ 3-40. Record retention and disposition.

No record shall be destroyed unless:

- A. the retention period established for the record in accordance with this chapter or Chapter 217, Records, Corporate (City), including § 217-4C, has expired and no information hold is applied on the record; or
- B. the record is a copy of the original record.

§ 3-41. Applicability of Chapter 217, Records, Corporate (City).

- A. Subject to this article, an accountability officer is responsible for the application of Chapter 217 to records of their office, as appropriate.
- B. A retention schedule contained in Chapter 217 applies to the records of the accountability officers, with any modifications deemed necessary by the accountability officer.
- C. Despite Subsection B, a retention period contained in the schedule to Chapter 217 applies to the records of the accountability officers.

- D. Any retention schedule containing an archival review designation shall be deemed to require review by the accountability officer responsible for the record.
- E. This section does not apply to an accountability record.

§ 3-42. Agreement respecting records retention and management.

- A. An accountability officer may seek the provision of services, advice or assistance in the creation and implementation of policies and recommendation of retention schedules as required from the City Clerk.
- B. An accountability officer may establish any guidelines and policies necessary to the implementation of this article.

§ 3-43. Accountability Record Retention Schedules.

- A. For the purposes of this article, an accountability officer may designate a record or a class of records as an accountability record.
 - B. Subject to Subsection C, an accountability officer may recommend directly to Council the establishment of a retention schedule for an accountability record.
 - C. No retention schedule shall be recommended to Council unless the City auditor has approved the retention period, in accordance with the requirements of subsection 201(3) of the Act.
 - D. A retention schedule established by Council for each accountability officer shall form a schedule to this chapter.
- 2. Toronto Municipal Code Chapter 3, Accountability Officers, is amended by deleting § 3-10F(3).
 - 3. Toronto Municipal Code Chapter 217, Records, Corporate (City), is amended as follows:
 - A. By deleting subsection B from the definition of Division Head in section 1.
 - B. By adding the following as § 217-3C.1:

Subsection C does not apply to a record reviewed in accordance with § 3-41C of Chapter 3, Accountability Officers.

Enacted and passed on May 26, 2017.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)