

Authority: Government Management Committee Item 32.7,  
as adopted by City of Toronto Council on August 25, 26, 27 and 28, 2014

## **CITY OF TORONTO**

### **BY-LAW No. 1067-2014**

#### **To amend City of Toronto Municipal Code Chapter 217, Records, Corporate (City).**

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 City Council wishes to amend City of Toronto Municipal Code Chapter 217, Records, Corporate (City), to delegate certain duties including the ability to establish some record retention and disposition rules to the City Clerk; and

Whereas under sections 20 to 24 and the specific powers and restrictions contained therein, the City may delegate its powers and duties under the Act to an officer or employee of the City, including administrative and quasi-judicial powers and legislative powers of a minor nature as provided in section 21; and

Whereas City Council also wishes to modernize Chapter 217 to ensure that the City's records retention by-law meets the needs of a complex, diverse and modern City, in keeping with the principles of transparency, participation, accountability and accessibility;

The Council of the City of Toronto enacts:

1. Toronto Municipal Code Chapter 217, Records, Corporate (City), is amended by replacing the text of Chapter 217, excluding Schedule A, with the following:

#### **§ 217-1. Definitions.**

As used in this chapter, the following terms have the meanings indicated:

AGENCY - An agency of the City of Toronto listed in Schedule B.

ARCHIVAL RECORDS - Records designated by the City Archivist that warrant continued preservation.

AUTHORITATIVE SOURCE - A recognized set of trusted and reliable information and data managed under the custodianship of an organizational unit.

**CITY RECORD** - A record created or received in the course of City administration or delivery of City services.

**CONFIDENTIAL INFORMATION** - Confidential information includes information in the possession of, or received in confidence by the City that the City is either prohibited from disclosing, or is required to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act*, or other legislation.

**DIVISION:**

- A. An organizational unit of the City, whether or not it is called a division or office, that is headed by a division head.
- B. Includes the offices of the City Manager, a Deputy City Manager, the Deputy City Manager and Chief Financial Officer, the Treasurer and the Chief Corporate Officer.

**DIVISION HEAD** - Any General Manager or any director or executive director reporting to the City Manager, a Deputy City Manager, the Deputy City Manager and Chief Financial Officer, the Treasurer or the Chief Corporate Officer.

- A. The City Clerk, the City Solicitor and the Medical Officer of Health.
- B. The Auditor General, the Integrity Commissioner, the Lobbyist Registrar and the Ombudsman.
- C. For the purpose of making a commitment under this chapter for their office, a Deputy City Manager, the Deputy City Manager and Chief Financial Officer, the Treasurer and the Chief Corporate Officer.
- D. A person authorized to act in the place of an official listed in Subsections A, B, C or D by Council or by the City Manager or another official under delegated authority.

**FORMER RECORDS RETENTION BY-LAW** - A retention by-law of one of the former municipalities and City of Toronto Municipal Code Chapter 217, Records, Corporate (City), as it existed immediately before this by-law came into force, listed in Schedule C.

**INFORMATION HOLD** - A process that prevents recorded information from expiring or being destroyed before the event to which they are relevant has been resolved.

**PERSONAL INFORMATION** - Has the same meaning as that set out in the *Municipal Freedom of Information and Protection of Privacy Act*.

**RECORD** - Information, however recorded or stored, whether in printed form, on film, by electronic means or otherwise, and includes documents, financial statements, minutes, accounts, correspondence, memoranda, plans, maps, drawings, photographs and films.

RECORDED INFORMATION - Information that is recorded on or in a medium irrespective of form, recording medium or technology utilized, and in a manner allowing for storage and retrieval. See also RECORD.

RETENTION PERIOD - A retention rule stating how long records must be retained.

RETENTION SCHEDULE - An authority comprising of a description of a body of records, a retention period for those records and a disposition rule stating whether, at the expiry of the retention period, the records are to be destroyed or preserved by the City Archives.

TRANSITORY RECORD - A record that meets at least one of the following criteria:

- A. Required solely for the completion of a routine action, or the preparation of another record.
- B. Not an integral part of a City record (for example, a photocopy of a record or a record filed with other, transitory, records).
- C. Not required to meet statutory obligations or to sustain administrative or operational functions.
- D. Records that have been transferred to and reviewed by the City Archives, in accordance with the retention schedule, that have insufficient value to warrant retention by the Archives.

**§ 217-2. Corporate objectives for managing information and records.**

- A. The City Clerk will, in accordance with applicable legislation, establish a framework of standards and policies relating to information and records management, including policies for:
  - (1) the management of records by the divisions, including, but not limited to, documentation, classification, and data quality standards;
  - (2) the collection and management of personal information;
  - (3) the retention and disposal of City records, subject to approved retention periods;
  - (4) the acquisition of records or collections from private sources by the City Archives;
  - (5) the auditing of information and records management practices in divisions; and
  - (6) the designation of authoritative sources of records and data.

- B. The City Clerk is authorized to enter into agreements with agencies, Accountability Officers, and other City-related bodies to provide services, advice or assistance in the creation and implementation of policies, as required, that reflect the general intent of the policies established in accordance with this section.
- C. The City Clerk shall maintain an up-to-date and publicly accessible retention schedule that includes retention and dispositions approved and established by City Council together with those approved and established by the City Clerk, which shall be Schedule A to this chapter.
- D. Unless repealed or superseded, a former retention schedule by-law shall be publicly available.

**§ 217-3. Information and records management responsibilities.**

- A. The implementation of policies established under § 217-2A relating to information and records management is a shared responsibility of the City Clerk, the Chief Information Officer and all division heads.
- B. In accordance with Subsection A, the City Clerk shall oversee the implementation of information and records management policies and standards established under § 217-2A, by:
  - (1) confirming that practices and systems optimize access to records while protecting the security of personal and confidential information, in accordance with established policies and applicable law; and
  - (2) providing corporate services to enhance the effective and efficient lifecycle management of information and records.
- C. The City Clerk shall maintain a record designated as archival in a secure and accessible manner, following the expiry of its authorized retention period.
- D. The Chief Information Officer will:
  - (1) develop and implement architecture and technology standards applicable to information and records management;
  - (2) develop policies specific to technological resources to be used for information and records management;
  - (3) ensure the security and integrity of technological systems and digital information;
  - (4) where applicable, conduct privacy impact assessments of information technology projects that collect or use personal information; and

- (5) integrate information and records management requirements, in particular the accessibility and protection of personal and confidential information, into technology architectures, policies, standards, and implementation actions.

E. Each division and division head will:

- (1) ensure that records are created and maintained to effectively document the services their divisions provide;
- (2) make divisional records easily accessible to members of the public, in accordance with established policies;
- (3) take proper measures to protect the security of personal and confidential information, in accordance with established policies and applicable law; and
- (4) maintain records in accordance with established records retention policies until disposition is implemented in accordance with the retention schedule.

**§ 217-4. Record retention and disposition.**

A. No record shall be destroyed unless:

- (1) the retention period established for the record in accordance with this chapter has expired and no information hold is applied on the record; or
- (2) the record is a copy of the original record.

B. The information and records of the City shall be retained in accordance with:

- (1) the applicable retention schedule established under this chapter; or
- (2) if not superseded by the City's current retention schedule, the retention period or schedule of a former records retention by-law.

C. Transitory records.

- (1) A transitory record may be deleted or otherwise destroyed on the same day that the record was created or received.
- (2) This subsection constitutes the retention schedule for a transitory record.

D. The City Archivist will, in accordance with policies established under this chapter, determine which records warrant continued preservation as archival records, such indication will form disposition rule in the retention schedule. Records not designated for continued preservation will be destroyed.

- E. A Corporate Records Retention Committee, comprised of the City Solicitor, the Internal Auditor, the Chief Information Officer, the City Clerk, or their delegates, shall meet as required to:
- (1) review proposed amendments and additions to the retention schedule, prior to submission for approval by the City Clerk or City Council under § 217-5;
  - (2) confirm that the retention schedule complies with all relevant legislative, financial and historical requirements for records retention; and
  - (3) review record keeping matters, including but not limited to an annual review of information holds, in accordance with policies established under § 217-2.

**§ 217-5. Establishment of retention schedules.**

- A. Corporate Records Retention Committee approval.
- (1) No retention period shall be established unless the Corporate Records Retention Committee has approved the retention period.
  - (2) Corporate Records Retention Committee approval shall be obtained prior to a review, establishment or amendment of a retention schedule by the City Clerk or Council in accordance with this section.
- B. City auditor approval.
- (1) No retention period shall be established unless the City auditor has approved the retention period, in accordance with the requirements of subsection 201(3) of the *City of Toronto Act, 2006*.
  - (2) City auditor approval shall be obtained prior to the retention period being reviewed and established or amended by the City Clerk or City Council in accordance with this section.
- C. City Council authority to establish or amend retention periods or schedules.
- (1) Subject to the requirements of this section, Council will make a decision with respect to the establishment or amendment of a retention schedule, including but not limited to:
    - (a) a recommended retention period that is permanent;
    - (b) a retention period that exceeds a statutory retention requirement by more than five years;
    - (c) a retention period that is less than a statutory retention requirement;

- (d) a retention period that is based on conflicting or inconsistent statutory retention requirements and the extent of conflict or inconsistency is more than five years in length;
  - (e) a recommended retention schedule that is in relation to a record of:
    - [1] an agency of the City;
    - [2] the office of the Auditor General;
    - [3] the office of the Integrity Commissioner;
    - [4] the office of the Ombudsman; or
    - [5] the office of the Lobbyist Registrar;
  - (f) a recommended retention schedule in relation to a decision or deliberation of City Council, including but not limited to:
    - [1] agendas, meeting minutes, by-laws, proceedings and decisions;
    - [2] agreements; and
    - [3] judicial inquiries.
- (2) Upon referral by the City Clerk pursuant to § 217-5D(1), City Council will make a decision with respect to the establishment or amendment of a retention schedule.
- D. City Clerk authority to establish or amend retention periods or schedules or refer establishment to City Council.
- (1) Subject to the requirements of this section, the City Clerk shall make a decision with respect to the establishment or amendment of a retention schedule or refer the establishment or refer the matter to City Council for decision.
  - (2) The City Clerk shall not establish or amend a retention schedule if any of the conditions set out in §217-5C(1) apply.
  - (3) The City Solicitor may submit, for enactment by Council, amendments to Schedule A to this chapter to give effect to a decision to establish or amend a retention schedule delegated to the City Clerk in accordance with § 217-5D.

#### **§ 217-6. Transition.**

- A. A records retention period established by a former records retention by-law shall remain in force unless repealed or superseded by a retention period established pursuant to this chapter.

- B. In the case of a conflict between this chapter and the records retention provisions of a former records retention by-law or any by-law not listed in the definition of former records retention by-law, this chapter prevails.
2. Toronto Municipal Code Chapter 217, Records, Corporate (City), is amended by adding the attached Schedules "1" and "2" as Schedules B and C to Chapter 217, Records, Corporate (City), respectively.

Enacted and passed on August 28, 2014.

Frances Nunziata,  
Speaker

Ulli S. Watkiss,  
City Clerk

(Seal of the City)



## **SCHEDULE "1"**

### **SCHEDULE B**

#### **City Agencies in scope for the purposes of Chapter 217**

##### Service Agencies

1. Board of Directors of the Hummingbird Centre for the Performing Arts
2. Board of Governors of Exhibition Place
3. Board of Health
4. Board of Management of the St. Lawrence Centre for the Arts
5. Board of Management of the Toronto Zoo
6. Heritage Toronto
7. North York Performing Arts Centre Corporation
8. Toronto Atmospheric Fund
9. Toronto Parking Authority
10. Toronto Police Services Board
11. Toronto Public Library Board
12. Toronto Transit Commission
13. Yonge-Dundas Square Board of Management

##### Community-Based Service Agencies

14. Arena Boards of Management:
  - a. George Bell Arena
  - b. Larry Grossman Forest Hill Memorial Arena
  - c. Leaside Memorial Community Gardens Arena
  - d. McCormick Playground Arena
  - e. Moss Park Arena
  - f. North Toronto Memorial Arena
  - g. Ted Reeve Community Arena
  - h. William H. Bolton Arena
15. Business Improvement Area Boards of Management as set out under Chapter 19, Business Improvement Areas
16. Community Centre Boards of Management:
  - a. 519 Church Street Community Centre
  - b. Applegrove Community Complex
  - c. Cecil Street Community Centre
  - d. Central Eglinton Community Centre
  - e. Community Centre 55
  - f. Eastview Neighbourhood Community Centre
  - g. Harbourfront Community Centre
  - h. Ralph Thornton Community Centre

- i. Scadding Court Community Centre
- j. Swansea Town Hall

#### Quasi-Judicial & Adjudicative Boards

- 17. Committee of Adjustment
- 18. Committee of Revision
- 19. Compliance Audit Committee
- 20. Property Standards Committee / Fence Viewers
- 21. Sign Variance Committee
- 22. Toronto Licensing Tribunal

**SCHEDULE "2"**

**SCHEDULE C**

**Former Records Retention 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", as amended;
- 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", as amended;
- 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", as amended;
- G. Former City of Toronto Municipal Code Chapter 97, Records Retention;
- 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; and
- I. City of Toronto Municipal Code Chapter 217, Records, Corporate (City), as it appeared immediately prior to the coming into force of this by-law.