

Authority: General Government Committee Item GG5.10,
as adopted by City of Toronto Council on July 19 and 20,
2023
City Council voted in favour of this by-law on October 12,
2023
Written approval of this by-law was given by Mayoral
Decision 19-2023 dated October 12, 2023

CITY OF TORONTO

BY-LAW 915-2023

To amend City of Toronto Municipal Code Chapter 217, Records, Corporate (City), to establish provisions with respect to the operational requirements concerning the deeming of a specified copy of a record to be the original, where the original is destroyed in accordance with by-laws passed under section 201 of the City of Toronto Act, 2006.

Whereas under section 201 of the City of Toronto Act, 2006, (the "Act") the City may establish retention periods during which the records of the City and local boards of the City must be retained and preserved; and

Whereas section 455 of the Act, provides for various provisions concerning the original and copies of records of the City; including but not limited to that a copy of any record under the control of the city clerk purporting to be certified by the clerk and under the seal of the City may be filed and used in any court or tribunal instead of the original and is admissible in evidence without proof of the seal or of the signature or official character of the person signing it, unless the court or tribunal otherwise directs; and

Whereas subsection 455(6) of the Act, specifically permits for by-laws to be enacted providing that a specified copy of a record is deemed to be the original for the purposes of this section 455, where an original has been destroyed in accordance with a by-law or resolution enacted under section 201 of the Act; and

Whereas City Council has determined that it may be appropriate, for a variety of practical concerns to, in certain circumstances, retain copies of certain records in an alternative format, and enact by-laws permitting the destruction of original copies of records documents; along with the deeming of these copies in an alternative format the originals for purposes of the Act; and

Whereas City Council wishes to amend City of Toronto Municipal Code Chapter 217, Records, Corporate (City), to assign certain responsibilities to staff concerning the process for records to be located, the suitability of copies of these source records in alternative formats to function as records of the City; and the destruction of original source records, and the deeming of copies as originals in accordance with the requirement of the Act; and

Whereas City Council wishes to amend City of Toronto Municipal Code Chapter 217, Records, Corporate (City), to modify existing and new provisions to reflect the role of the City's Chief Technology Officer;

The Council of the City of Toronto enacts:

1. Chapter 217, Records, Corporate (City), of The City of Toronto Municipal Code is amended by:

a. adding the following definitions alphabetically in the appropriate place to Section 217-1:

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

DIGITAL COPY - A digital record created by digitization which is a copy of a source record.

DIGITAL RECORD - A record containing information recorded or stored by electronic means.

DIGITIZATION - The action by which a digital record is created.

PHYSICAL RECORD: A record containing information recorded or stored in, handwritten; drawn, photographed; or mechanically printed or otherwise produced form, including records prepared on film, or other similar formats but does not include records containing information recorded or stored by electronic means.

SOURCE RECORDS: The original copy of a City Record, from which a Digital Copy was created through digitization

b. deleting Subsection 217-2A and replacing it with the following:

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, digitization and data quality standards;
- (2) the collection and management of personal information;
- (3) the retention and disposition of City records, subject to approved retention periods;
- (4) the approved processes, equipment, and standards to be utilized in digitization;
- (5) the creation and management of a digital copy of a City record;

- (6) designation of a digital copy of a source record as the original, for purposes of s.455 of the City of Toronto Act, 2006;
 - (7) the acquisition of records or collections from private sources by the City Archives;
 - (8) the auditing of information and records management practices in divisions; and
 - (9) the designation of authoritative sources.
- c. adding the following to Section 217-2 as Subsection 217-2E:
 - E. The City Clerk shall review and approve or deny a proposal to destroy a City Record on the basis that it is a source record.
- d. deleting the phrase "Chief Information Officer" from Sections 217-3 and 217-4, and replacing it with the phrase "Chief Technology Officer" where ever it appears in each Section.
- e. adding the following two subsections to Subsection 217-3E as Subsections 217-3E(5) and 217-3E(5):
 - (5) submit proposals for review by the Corporate Records Retention Committee to destroy a source record; and to have City Council deem the digital copy as the original as set out in § 217-5.B; and
 - (6) submit requests to the City Clerk to destroy a source record.
- f. adding the following subsection to Subsection 217-4A as Subsections 217-4A(3):
 - (3) the record is the source record from which a digital copy was created through digitization in accordance with policies established under § 217-2, and such destruction is approved by the City Clerk.
- g. adding the following two subsections to Subsection 217-4E as Subsections 217-4E(4) and 217-4E(5):
 - (4) review requests to designate digital copies of source records as the original for purposes of section 455 of the City of Toronto Act, 2006, prior to submission for approval by City Council under § 217-5; and
 - (5) review requests to destroy source records, to ensure proposals are in accordance with the conditions set out in § 217-4F; and, to report to City Clerk on such proposals.
- h. adding the following to Section 217-4 as Subsection 217-4F:

F. Source Records

- (1) A source record, may be destroyed if:
 - (a) The division head signs an attestation that a digital copy has been created and maintained in accordance with the applicable policies established under § 217-2;
 - (b) The division head signs an attestation that a digital copy has been deemed by City Council to be the original record for purposes of section 455 of the City of Toronto Act, 2006, upon destruction of the source record; and
 - (c) None of the conditions in § 217-4F(2) are present;
- (2) Source records may not be destroyed if: a. the source record is identified by the City Archivist as having archival value; or b. the source record is required to be retained in its original format by law, regulation, or policy; or otherwise to sustain administrative or operational functions; and
- (3) The source record may be destroyed after the City Council decision deeming a digital copy of the source record as the original comes into effect.
- (4) This subsection constitutes the retention schedule for a source record.

i. adding the following to Section 217-5 as Subsection 217-5B:

- B. City Clerk authority to submit source records designations to City Council.
- (1) The City Clerk shall submit all proposals for copies of source records to be deemed as original records, upon the destruction of the source records, to City Council for decision.
 - (2) Upon submission by the City Clerk pursuant to § 217-5B(1), City Council will make a decision with respect to the deeming of copies of source records as original records.

Enacted and passed on October 12, 2023.

Frances Nunziata,
Speaker

John D. Elvidge,
City Clerk

(Seal of the City)