

Report #22 – Attachment 4

Date to be determined after TPL Board approval of Records Management Policy and Records Retention Schedule

To: Administration Committee, City of Toronto
From: Gillian Mason, Chair, Toronto Public Library Board
Subject: City of Toronto By-Law Governing Retention Periods for Records in the Custody and Control of the Toronto Public Library Board

Purpose:

To request the Administration Committee to recommend to City Council the enactment of a City of Toronto by-law establishing retention periods for records in the custody and control of the Toronto Public Library Board.

Financial Implications and Impact Statement:

There are no financial implications resulting from the adoption of the report.

Recommendations:

It is recommended that:

- (1) a harmonized records retention bylaw be enacted substantially as set out in the draft bylaw attached as Appendix B to this report; and
- (2) authority be granted for the introduction of the necessary Bills in City Council to give effect to the foregoing.

Background:

At its meeting held on _____, the Toronto Public Library Board adopted a report from the City Librarian, dated _____, requesting the Board's approval of a new record retention schedule for records in the custody and control of the Board and requesting that the Board forward such report to City Council for enactment of the

necessary by-law. A copy of the City Librarian's report is attached as Appendix "A" to this report.

Comments:

In accordance with subsection 255(1) of the *Municipal Act 2001*, the Toronto Public Library Board may only destroy any of its records or documents in accordance with a by-law enacted by the City of Toronto establishing retention periods for the records and which have been approved by the municipal auditor.

Currently, records of the Toronto Public Library Board are handled in accordance with retention periods that apply to the former public library boards that were amalgamated into the current Board in 1998. A new records retention by-law is required to harmonize the retention periods within the new Toronto Public Library, so that similar types of records will be retained for the same time periods, in accordance with the law and current administrative and audit requirements.

Under the proposed by-law, attached as Appendix "B" to this report, Library records, including records of the former library boards for which the retention period has passed, will be disposed of in accordance with the retention periods set out in Schedule "A" to the by-law. The City Librarian's Office implements and maintains the records retention by-law to ensure obsolete records are destroyed and that archival records are identified for transfer and preservation in the Toronto Public Library Archives.

The proposed records retention by-law has been developed through an analysis of the records series held by the Library. Analysis was also undertaken of the legislation governing the records to determine how long they legally need to be kept. Consultation with senior Library staff then took place on how long each records series is needed to meet the Library's administrative requirements or public expectations. Finally, the records retention by-law was reviewed and approved by the Toronto Public Library Board, by staff in the City of Toronto Legal Division, as well as the City's external/municipal auditor.

It is important that the Toronto Public Library Board organize its records to conduct Library business efficiently, meet expectations of accountability, and ensure that records are accessible in accordance with the law. This includes disposing of records no longer considered of legal, financial or historical value, and preserving those that are needed for future use. City Council has previously adopted by-laws governing records retention for other local boards, such as the Toronto Police Services Board and the Toronto Transit Commission. The Board also wishes to exercise this option in order to develop a records retention schedule which will reflect its unique operations.

Conclusions:

In light of the provisions of the *Municipal Act 2001* respecting a municipal by-law governing retention periods for records in the custody and control of the Toronto Public

Library Board, the Board is seeking Administration Committee and Council approval of a by-law establishing retention periods for records in the control and custody of the Board.

Contact:

Gillian Mason
Chair

List of Attachments:

Appendix A: Records Management Policy and Records Retention Schedule –
November 28, 2005 Report to Toronto Public Library Board

Appendix B: City of Toronto By-law to establish retention periods for records of the
Toronto Public Library Board

APPENDIX “B”

Authority:

Enacted by Council:

CITY OF TORONTO

Bill No.

BY-LAW No.

To establish retention periods for records of the Toronto Public Library Board

WHEREAS under section 255 of the *Municipal Act 2001*, a municipality may, subject to the approval of the municipal auditor, establish retention periods during which the records of the municipality and its local boards must be retained and preserved; and

WHEREAS Municipal Code Chapter 219, Records, Corporate (Local Boards), contains the record retention schedules of the City local boards or similar entities; and

WHEREAS as the result of the establishment of the Auditor General position and Internal Audit Division, the City's external auditor is now the “municipal auditor” for the purposes of subsection 255(3) of the *Municipal Act, 2001*;

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

1. The City of Toronto Municipal Code Chapter 219 is amended by adding the following as Article III:

ARTICLE III

Toronto Public Library Board

§ 219-6. Definitions.

A. As used in this article and in Schedule F to this article at the end of this chapter, the following terms shall have the meanings indicated:

ARCHIVAL REVIEW PERIOD — The period of time during which a qualified archivist conducts a systematic appraisal of records having potential archival value.

ARCHIVAL VALUE — The evidential and informational value of records, which is determined during appraisal and justifies the records preservation as archives.

COMPUTER SYSTEM — A device or a group of interconnected or related devices, one or more of which:

- (1) Contains computer programs or other data; and
- (2) Pursuant to computer programs, performs logic and control, and may perform any other function.

CONTENT, CONTEXT or STRUCTURE:

- (1) That which conveys information, including text, data, symbols, numerals, images and sound;
- (2) The appearance and arrangement of the content, including relationships between fields, entities, language, style, fonts, page and paragraph breaks, links and other editorial devices;
- (3) Fields, entities, language, style, fonts, page and paragraph breaks, links and other editorial devices; or
- (4) Background information that enhances understanding of technical and business environments to which the data relates, such as metadata, application software, logical business models and the origin, such as address, title, link to function or activity, agency, program or section.

DATA — Representations of information or of concepts, in any form, that are recorded or stored on any medium in or by a computer system or other similar device and that can be read or perceived by a person or a computer system or other similar device, including a display of that data.

DISPOSE — To destroy a record or to transfer a record to the Library Archives.

LIBRARY ARCHIVES — The Toronto Public Library Archives.

ORPHAN DATA:

- (1) Data that is not machine readable by any of the Library's computer systems because the data exists with no identifiable computer application that can retrieve the data; or
- (2) Data that is machine readable but does not have sufficient content, context or structure to render it understandable by an experienced Library

employee who is knowledgeable about the business function or functions to which the data relates.

RECORD — The same meaning as in subsection 1(1) of the *Municipal Act, 2001*. [This meaning is noted as follows for reference purposes only:

"record" means 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;]

RECORDS SERIES — A group of records that support a particular Library program or operation, that are filed together, and need to be retained for the same period of time.

RETENTION PERIOD — The period of time during which a specific records series must be kept by the Library before records in that records series may be disposed of.

RETENTION SCHEDULE — The schedule prescribing how long a specific records series must be retained before they may be disposed of.

TRANSITORY RECORD —A record that is:

- (1) Retained solely for convenience of reference;
- (2) Required solely for the completion of a routine action, or the preparation of another record;
- (3) Of insignificant or no value in documenting Library business transactions;
- (4) Not an integral part of a Library record;
- (5) Not filed regularly with records or filing systems;
- (6) Not required to meet statutory obligations or to sustain administrative or operational functions;
- (7) About social events that are not special Library events;
- (8) Not related to Library business; or
- (9) A voice mail message.

B. As used in the retention schedule in Schedule F to this article at the end of this chapter, the following abbreviations and terms shall have the meanings indicated:

ACTIVE — The period of time in years, unless otherwise stated, that the records must be kept in the active records office area.

C or CURRENT YEAR — The calendar year in which the records were created.

CORPORATE HOLDER — The Library department or unit responsible for maintaining the records series.

DISPOSITION — The destruction of a record or transfer of a record to the Library Archives, as indicated in a retention schedule by one of the following designations which have the meanings indicated:

- (1) LIBRARY ARCHIVES — Retain the records permanently in the Library's Archives.
- (2) ARCHIVAL REVIEW — Destroy the records after review by an archivist, except for selected records that are transferred for permanent retention in the Toronto Public Library Archives, based on appraisal criteria.
- (3) DESTROY — The records are destroyed once the total retention period has expired.

INACTIVE — The period of time in years, unless otherwise stated, that the records must be kept following the active period.

MEDIA:

- (1) The physical format of the records series, for example, paper, electronic, microfilm.
- (2) If the retention schedule indicates “all media”, records in any format are included.

P or PERMANENT — A record that is never destroyed.

RECORDS SERIES TITLE — The title and detailed description of the types of records included in each records series.

S or SUPERSEDED: — A record that is replaced by an updated record.

T or TERMINATED: — A retention period that is calculated from a specific type of event, as explained under each records series.

TOTAL — The total retention period, including active and inactive retention periods.

§ 219 7. Retention schedule.

- A. The records of the Library shall be retained and may only be destroyed as set out in the retention schedule in Schedule F to this article, at the end of this chapter.
- B. The City Librarian or designate shall develop and administer the retention schedule.
- C. In determining the retention period for a records series, the City Librarian or designate shall consult with other Library staff as appropriate, the City Solicitor and the City's municipal auditor.
- D. The City Librarian or designate shall:
 - (1) Review and recommend amendments and additions to the retention schedule, for approval by the Library Board and City Council; and
 - (2) Ensure that the retention schedule complies with all relevant legislative, financial and historical requirements for records retention.
- E. A retention period for a records series shall be based on the following:
 - (1) The administrative value of the records based on the period of time during which the Library uses a record to perform its functions;
 - (2) The legal value of the records, based on the period of time necessary to meet statutory or other regulatory requirements, requirements imposed by an agreement, permit or similar document, or to ensure that records are available in case of litigation or investigation;
 - (3) The audit value of the records, based on the period of time required for audit or tax purposes; and
 - (4) The archival value of the records, based on the long-term value of the records to document past events or the origins and history of the Library.

§ 219-8. Responsibility of Library staff, volunteers and members.

All Library staff, volunteers and Board members who work with, create or manage records shall:

- A. Manage and maintain records in their custody or control as corporate assets that belong to the Library, and not to individual staff, Library business units or departments that have custody of those records;
- B. Comply with the retention periods in the retention schedule;

- C. Apply retention periods and dispose of records only in accordance with the retention schedule;
- D. Ensure preservation and security of records as directed under this chapter;
- E. **Ensure that records in their custody or control are protected from inadvertent destruction or damage, and ensure that records, other than transitory records or duplicate records, are destroyed only with the authorization of designated staff in the department that has custody or control of the records;**
- F. Retain and preserve records in an accessible manner so that the records can be retrieved within a reasonable time and are in a format that allows the content of the records to be readily ascertained by a person inspecting the records; and
- G. Ensure that transitory and duplicate records in their custody or control are destroyed when they are no longer needed for short-term reference.

§ 219-9. Principles of records destruction.

The following principles govern the destruction of records:

- A. When there are no further legal or business reasons for retaining records, the records shall be destroyed as a class rather than selectively.
- B. Records pertaining to pending or actual litigation or investigation shall not be destroyed with the class of records to which they relate.
- C. Records shall be destroyed in a way that preserves the confidentiality of any information they contain.

§ 219-10. Destruction of orphan data.

Orphan data in the custody or control of the Library may be destroyed.

§ 219-11. Documentation prior to destruction of orphan data.

Prior to the destruction of any orphan data, the following documents are required:

- A. A written description of the data containing, to the extent that such information is obtainable, the following:
 - (1) The title of the system.
 - (2) The identification of the business unit that is responsible for the creation or use of the data.

- (3) A brief description of the system's purpose.
- (4) A brief description of any subsystems, their purpose and relationship to the main system or other subsystems.
- (5) The name of the technical contact person who is responsible for documenting the system.

B. The written approval of the department head or designate who is responsible for the business function to which the data relates.

C. Where applicable to satisfy the provisions of the *Income Tax Act* (Canada), the *Employment Insurance Act* (Canada) or the *Canada Pension Plan*, an exemption from the requirement to keep records in an electronically readable format from the Minister of National Revenue, on such terms and conditions as are acceptable to the Minister.

§ 219-12. Retention of documentation.

The documents described in 210A and B shall be submitted to, and kept by, the City Librarian or designate, as required by this article.

§ 219-13. Transitory and duplicate records.

- A. Despite the remainder of this Article, but subject to the *Municipal Freedom of Information and Protection of Privacy Act*, this section applies to the retention of all records created or received by Library staff, volunteers, and Board members.
- B. A transitory record may be deleted or otherwise destroyed on the same day that the record was created or received.
- C. A copy of a record may be destroyed at any time if the original is subject to a retention period established by this by-law.
- D. A micrographic copy of a record shall be deemed to be the original for the purposes of this Article.

§ 219-13.1. Archival review period.

- A. At the end of the archival review period, a record, other than a copy of the record or a transitory record:
 - (1) Shall be transferred to the Library Archives if it possesses archival value; or
 - (2) Shall be destroyed if it does not possess archival value and if there is no further business or legal requirement to retain the record.

B. The archival review period shall be deemed to end on the date that the City Librarian or designate certifies that the archival review is complete and the record has no archival value.

3. This by-law comes into force upon approval by the City's external auditor.

ENACTED AND PASSED this _____ day of _____ A.D. 2005.

Mayor

City Clerk

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