

**BY-LAW NO. 1110-18**  
**BEING A BYLAW OF**  
**MACKENZIE COUNTY**  
**IN THE PROVINCE OF ALBERTA**

**TO REGULATE THE RETENTION AND DISPOSITION OF RECORDS**

**WHEREAS**, the Council of Mackenzie County deems it necessary and appropriate to ensure that municipal records, consisting of both paper format and electronic format, are retained and disposed of in a manner consistent with Federal and Provincial statutes and regulations;

**AND WHEREAS**, the *Municipal Government Act*, Section 208(1) (b), provides that the municipality must ensure all records and documents are kept safe;

**AND WHEREAS**, the *Municipal Government Act*, Section 214(2), as amended, provides that Council may pass a bylaw respecting the retention and destruction of other records and documents of the municipality;

**AND WHEREAS**, the *Freedom of Information and Protection of Privacy Act*, Section 3(e) (ii) does not prohibit the transfer, storage or destruction of any Record in accordance with a bylaw of a local governing body;

**AND WHEREAS**, pursuant to Section 38 of the *Freedom of Information and Protection of Privacy Act*, Mackenzie County must protect personal information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or destruction;

**AND WHEREAS**, the *Electronic Transactions Act*, Section 10, provides that a public body (as defined in the *Freedom of Information and Protection of Privacy Act*), has the authority to create its records electronically;

**NOW THEREFORE**, the Council of Mackenzie County duly assembled, enacts as follows:

**1. TITLE**

- a) This Bylaw shall be cited as the “Records Management Bylaw”.

**2. DEFINITIONS**

- a) “**Council**” – means the Mackenzie County Council.
- b) “**Disposition**” – means a range of processes associated with the retention or destruction of a record in accordance with the records management policy.

- c) **“Designated Official”** – means the Chief Administrative Officer (as defined in the *Municipal Government Act*) or designate duly appointed by Council or the Chief Administrative Officer of Mackenzie County.
- d) **“Electronic Record”** – means information that is recorded or stored on any medium in or by a computer system or other similar device and can be read or perceived by a person on a computer system or other similar device.
- e) **“Electronic Records Management System”** – means the computer program or set of programs designed to track and store records. The software can be used to manage the creation and maintenance of records within classification schemes, apply retention and disposition schedules, and control access and use.
- f) **“Municipality”** – means the municipal corporation of Mackenzie County.
- g) **“Record”** – means the expression of information in a form that is documented regardless of physical mode or medium which constitutes evidence of the business of the municipality. It does not include software or mechanisms that produce records.
- h) **“Records Management”** – means the application of systematic control of the creation, receipt, maintenance, use and disposition of records.
- i) **“Retention Schedule”** – means a system for classifying records, which includes a record’s life span from the date on which it was created to the date of its final disposition and instructions to the manner and time of disposition.
- j) **“Transitory Record”** – means records that have only short-term, immediate, or no value to the municipality that will not be required in the future. Transitory records are required for only a limited period of time for the completion of a routine action or preparation of a record.

### **3. RECORDS CARE AND CUSTODY**

- a) Records in the custody and control of the municipality’s departments are the property of the municipality and must be managed in accordance with the records management policy.
- b) Where records are in the possession of an Outside Agency, such records will be under the municipality’s control when:
  - i) The record is specified in the contract as being under the control of the municipality;

- ii) The content of the record relates to the municipality's mandate and functions;
  - iii) The municipality has the authority to regulate the records use and disposition;
  - iv) The outside agency is a consultant, and the record was created for the municipality
- c) Once the record is under the control of the municipality, the municipality is permitted to inspect, review, or copy the records produced, received or acquired.

#### **4. RETENTION AND DISPOSITION**

- a) The designated official shall:
- i) Establish a records management policy, which includes a retention schedule and disposition procedures that shall be reviewed and amended as required.
  - ii) Ensure that all records are retained or disposed of in accordance with the records management policy.
  - iii) Has the discretion to determine whether a record shall be maintained physically or electronically.
  - iv) Has the discretion to retain records longer than the period provided for in the records management policy and shall do so when it is deemed appropriate or has received any indication that there is or may be any litigation involved regarding any of the said records.
  - v) Pursuant to the *Municipal Government Act*, Section 214(1), the designated official has the authorization to dispose of original documents in accordance with the records management policy, including Council minutes or bylaws, providing the original has been recorded on the municipality's electronic records management system that will enable copies of the original to be made.
  - vi) Pursuant to the *Municipal Government Act*, Section 214(3), as amended, provides if an individual's personal information will be used by the municipality to make a decision that directly affects the individual; the municipality must retain the personal information for at least one year after using it so that the individual has a reasonable opportunity to obtain access to it.

- b) Any document or record not referenced in the records management policy may only be destroyed with the direction and approval of the designated official.
- c) Transitory records are exempt from the provisions of this bylaw and may be confidentially discarded routinely.
- d) Disposition of records will require a written statement signed off by the designated official and witness(s), attesting to the time and place of the records disposition, which records were disposed of and the method of disposal. In the case of off-site disposition, the contractor's destruction certificate shall accompany the written statement.
- e) Election material shall be destroyed in accordance with the provisions of the *Local Authorities Election Act*.
- f) Where there is conflict between this bylaw or the records management policy and Provincial or Federal legislation, the Provincial or Federal legislation shall apply and shall supersede this bylaw and the records management policy.

**5. EFFECTIVE DATE AND REPEAL OF BYLAW**

- a) That Bylaw 190/99 and all amendments thereto are hereby repealed.
- b) The adoption of this bylaw is effective upon the date of the passing of the third and final reading thereof.

First Reading given on the 25<sup>th</sup> day of July, 2018.

Second Reading given on the 25<sup>th</sup> day of July, 2018.

Third Reading and Assent given on the 25<sup>th</sup> day of July, 2018.

(original signed)

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Peter F. Braun  
Reeve

(original signed)

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Len Racher  
Chief Administrative Officer