



Records Management Policy

Title

1. This policy may be cited as the “Records Management Policy.”

Interpretation

2. In this policy:

- (1) “Council” means the council of the **Municipality of the District of St. Mary’s**
- (2) “Designated Officer” means the person designated and authorized by the Chief Administrative Officer of the **Municipality of the District of St. Mary’s**, to act on behalf of the **Municipality of the District of St. Mary’s** to manage and maintain the Records Management System;
- (3) “Manual” means the AMA Records Management Manual, second edition, as amended from time to time;
- (4) "record" includes books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by graphic, electronic, mechanical or other means, but does not include a computer program or any other mechanism that produces records;
- (5) “Records Management System” means an electronic or paper-based system used by the **Municipality of the District of St. Mary’s** to manage the records of the **Municipality of the District of St. Mary’s** from record creation through to records disposal;

The definition of “Designated Officer” is used to ensure that the Records Management System is duly designated and authorized by the municipal government and properly managed and maintained. Municipalities may wish to use a designated occupational title—for example, “City Clerk” or “Records Officer” in place of “Designated Officer”, wherever “Designated Officer” appears in the Model Records Management Policy.

The definition of “record” mirrors the definition in s. 461(h) of Part XX - Freedom of Information and Protection of Privacy of the MGA and includes electronic records. All municipalities in Nova Scotia are required to comply with Part XX – Freedom of Information and Protection of Privacy provisions of the MGA

The definition of “Records Management System” permits use of a paper based or electronic record-keeping system or a combination of the two. Under the definition of “Records Management System”, the records management system used by a municipality must use a life-cycle approach to records management.

Records Management System Established

3. The Records Management System of the **Municipality of the District of St. Mary’s** is established and authorized.

Under s. 34 of the MGA, the council of a municipality may adopt a policy for the management and destruction of records. This provision establishes the Records Management System of the municipality. If an existing Records Management System is employed by the municipality, the alternative provision should be used so that the existing System in use is authorized by the council of the municipal unit.

Compliance with Records Management System

4. All records in the custody and control of the employees of the **Municipality of the District of St. Mary’s** are the property of the **Municipality of the District of St. Mary’s** .All records of the **Municipality of the District of St. Mary’s]** must comply with the Records Management System and this policy. All employees and management of the **Municipality of the District of St. Mary’s** must comply with this policy.

Once authorized by the council of the Municipality, both records and the employees of the municipal unit must comply with the Records Management System and this compliance is recognized by the policy. The municipal unit is the owner of the records, not specific departments or groups within the municipality.

Designated Officer

5. The Designated Officer is responsible for the management and maintenance of the Records Management System.

Adoption of the Manual

6. The Designated Officer is authorized to adopt and maintain the Manual as part of the Records Management System. Records of **Municipality of the District of St. Mary’s** must

be created, accessed, maintained and disposed of only as provided by the Manual. The Manual includes a Records Retention Schedule that prescribes the period of time that records are kept to meet the operational, legal, regulatory, financial or other requirements of the **Municipality of the District of St. Mary's**. The Records Retention Schedule also provides instructions as to the manner and time of the disposition of a record.

The Manual may provide evidence of the integrity of records made in the usual and ordinary course of business of municipalities in a legal proceeding. Section 23 of the Nova Scotia Evidence Act, R.S.N.S. 1989, c. 154 and s. 30 of the Canada Evidence Act, R.S.C. 1985, c. C-5 deals with admitting business records into evidence.

Section 23(4) of the Nova Scotia Evidence Act provides that the circumstances in which records are kept may affect the weight of evidence tendered in a legal proceeding as a business record. Furthermore, dealing with electronic records, s. 23F of the Nova Scotia Evidence Act provides that for the purposes of determining admissibility of an electronic record, evidence in respect of standards, procedures, usage or practices of how electronic records are recorded or stored, may be presented. See also, Canada Evidence Act, s. 30(6) and s. 31.5.

Section 34 (4) of the MGA deals with authenticity of a municipal record. Section 34 provides that where a municipal record is destroyed or an original municipal record is not produced in court, and the clerk certifies that a reproduction is part of the records of the municipality and is a true reproduction of the original municipal record, a photographic, photostatic or electronic reproduction of the record is admissible in evidence to the same extent as the original municipal record and is, in the absence of proof to the contrary, proof of the record.

Integrity and Authenticity Maintained

7. The Records Management System must maintain the integrity and authenticity of records made or kept in the usual and ordinary course of business.

Authorization to Amend Manual

8. The Designated Officer is authorized to amend the Manual.

To ensure that the Manual is up to date and complete, the Designated Officer is authorized to amend the Manual.

Disposal by Designated Officer

9. When the Designated Officer determines that the retention period for a given record described in the Records Retention Schedule has ended, the Designated Officer may allow the record to be destroyed or otherwise disposed of in accordance with the instructions outlined in the Records Retention Schedule and in consultation with stakeholders within the organization as detailed below:

- (1) The destruction actions must always be authorized, allowing for staff to intercede if specific issues such as a government investigation, audit, freedom of information access request, litigation or legal claim require that destruction must

be halted. A sample records destruction approval form is included in Appendix B – Forms and Samples to the Manual;

- (2) Records pertaining to any actual or pending government investigation, audit, freedom of information access request, litigation or legal claim should not be destroyed. There should be processes to impose a “legal hold” when specific requirements arise;
- (3) Records destruction should be undertaken in a manner that preserves the confidentiality of records, including the privacy of information about individuals;
- (4) All copies of records that are authorized for destruction, including security, preservation and backup copies, should be destroyed as soon as reasonably possible; and
- (5) Records should be maintained to document the destruction actions. Certificates of destruction are generally provided by service agencies, and these are retained permanently, along with information about the records series title, date range and date of destruction

This provision provides the Designated Officer with the authority to destroy or dispose of records according to the terms of the Records Retention Schedule.

10. Records that are required by any enactment to be kept, and all minutes, by-laws, policies and resolutions of Council shall not be destroyed.

Section 34(2) of the MGA requires that municipalities not destroy any records that are required by any enactment to be kept. Section 34(2) also requires that minutes, by-laws, policies and resolutions of council not be destroyed. Section 483(4) of the MGA also requires that where a municipality uses an individual’s personal information to make a decision that directly affects the individual the municipality retain that information for at least one year after using it.

Records Management Policy

Editor's Annotations

Enabling Legislation

Municipal Government Act, R.S.N.S. 1998, c. 18:

34 (1) The council may adopt a policy for the management and destruction of records.

...

Disclaimer

The purpose of this publication is to provide general information. This publication is not intended to provide legal advice. The contents of this publication should not be relied upon. No solicitor-client or other relationship is created by using the contents of this publication. This publication is not a substitute for competent and independent legal advice or other professional advice. If legal advice or other professional advice is required, the services of a competent professional should be sought.

While the Association of Municipal Administrators of Nova Scotia ("AMANS") has made reasonable efforts to ensure that the contents of this publication are accurate, the AMANS does not warrant or guarantee the accuracy, currency or completeness of the contents of this publication. The AMANS expressly disclaims all representations, warranties, conditions and endorsements. In no event shall the AMANS, its directors, agents, consultants or employees be liable for any loss, damages or costs whatsoever, including (without limiting the generality of the foregoing) any direct, indirect, punitive, special, exemplary or consequential damages arising from, or in connection to, any use of any of the contents of this publication.

Important Notice

The reader is cautioned that editorial and drafting choices involve interpretation of the law. Municipal units should consult with their own legal advisors before relying upon, and applying to their own circumstances, the comments or drafts contained in this Manual.

Comments

- This Model Records Management Policy is premised on municipalities adopting the AMA Records Management Manual, as amended from time to time, as its Records Management System. If a municipality uses, or plans to use a records management system other than the AMA Records Management Manual, the municipality must alter its Records Management

Policy accordingly.

- If a municipality adopts this Model Records Management Policy and the AMA Records Management Manual as its Records Management System, the municipality must be sure to follow it. In such a situation, the municipality may be found to be liable if the municipality destroys records contrary to its own policy and Records Management System in place.
- Municipalities in Nova Scotia are bound by the *Freedom of Information and Protection of Privacy* provisions of Part XX of the *Municipal Government Act*. Municipalities are not bound by the provincial *Freedom of Information and Protection of Privacy Act*.
- In addition to the *Municipal Government Act*, municipalities should consult the following Nova Scotia legislation regarding the duty to keep records:
 - *Government Records Act*
 - *Personal Information International Disclosure Protection Act*
- Section 3 of the Records Management Policy (the “Policy”) establishes and authorizes the Records Management System. If a municipality has an existing Records Management System in place, the alternate wording should be used in section 3 to authorize the existing system.
- Pursuant to section 4 of the Policy, all records in the custody and control of the municipality are the property of the municipality. Section 4 also requires that all records comply with the Records Management System and Policy. All employees and management of the municipality must comply with the Policy under section 4.
- Under section 5, the Designated Officer is responsible for the management and maintenance of the Records Management System.
- Section 6 authorizes the Designated Officer to adopt and maintain the AMA Records Management Manual. Pursuant to section 6, records of a municipality must only be created, accessed, maintained and disposed of in accordance with the Manual. The AMA Records Management Manual includes a Records Retention Schedule that prescribes the period of time that records are kept as well as instructions as to the manner and time of the disposition of a record.
- Section 7 requires that the Records Management System in place in a municipality maintains the integrity and authenticity of records made or kept in the ordinary course of business.
- Section 8 gives the Designated Officer of a municipality the authority to amend the AMA Records Management Manual in order to keep it current.
- Section 9 gives the designated officer the authority to order a record destroyed or to be otherwise disposed of when the retention period has ended, so long as it complies with the instructions set out in the AMA Records Management Manual’s Records Retention Schedule and in consultation with stakeholders within the organization as detailed in subsections 9(1) to 9(5).

- Section 10 prohibits the destruction of records required by any enactment to be kept by the municipality, as well as all minutes, by-laws, policies and resolutions of Council.
- See the User's Guide found at the beginning of this Manual regarding the appropriate insert to make where "[Municipality]" appears.
- The Chapter # in the Policy title bar should be replaced by each municipal unit with the Chapter number it assigns to this Policy.