

 M O N C T O N	POLICY	Owner Department: City Clerk
	Right to Information and Protection of Privacy Policy	
Effective Date: March 18, 2013	Last Reviewed Date: January 1, 2018	
Approving Authority: Moncton City Council	Replaces No.: Policy 0207	
1. Background		

The *Right to Information and Protection of Privacy Act* (“RTIPPA”) of the Province of New Brunswick governs how the Corporation of the City of Moncton (the “City”) provides access to records containing public information, as well as how the City collects, uses, and discloses personal information.

The purposes of this policy are:

1. To establish guidelines for the routine disclosure of public records, as well as a process for responding to formal access to information requests under RTIPPA;
2. To ensure that the City implements best practices for the management of personal information and protection of privacy; and
3. To ensure that the City adheres to the requirements of RTIPPA and any other relevant legislation with respect to access to information and protection of privacy.

Similar to RTIPPA, this policy is divided into two sections. The first section deals with access to information and disclosure of records; the second sections deals with management of personal information and protection of privacy.

2. Definitions

Employee means an individual or corporation hired by the City to perform work under either a contract for services or a contract of service.

Personal information means recorded information about an identifiable individual, including but not limited to the individual’s:

1. Name;
2. home address or electronic mail address or home telephone or facsimile;

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3. age, gender, sexual orientation, marital or family status;
4. ancestry, race, colour, nationality or national or ethnic origin;
5. religion or creed or religious belief, association or activity;
6. personal health information;
7. blood type, fingerprints or other hereditary characteristics;
8. political belief, association or activity;
9. education, employment or occupation or educational, employment or occupational history;
10. source of income or financial circumstances, activities or history;
11. criminal history, including regulatory offences;
12. own personal views or opinions, except if they are about another person; or
13. the views or opinions expressed about the individual by another person; or
14. an identifying number, symbol or other particular assigned to the individual.

Record means a record of information in any form, and includes information that is written, photographed, recorded or stored in any manner, on any storage medium or by any means, including by graphic, electronic or mechanical means, but does not include electronic software or any mechanism that produces records.

3. Application

This policy applies to all employees handling records and information while conducting City business.

4. Access to Information

1. Policy

Records in the custody or under the control of the City shall be used, maintained, disclosed and disposed of in accordance with City policies and procedures and all applicable legislation. Unless exempted or limited under RTIPPA, the City shall allow the public a right of access to records in its custody or under its control.

2. Procedures - Routine disclosure and guidelines

Wherever possible, departments are encouraged to establish a system of routine disclosure to allow the public access to certain records without the need for a formal access to information request under RTIPPA. Routine disclosure should apply to records which may be of general interest to the public, and which do not include any of the following types of information:

- a. Information provided in confidence by a municipal, provincial or federal government body, or by a council of a band as defined in the Indian Act(Canada), or information the disclosure of which could harm relations between the City and any of those bodies;
- b. Information relating to a harassment or personnel investigation;
- c. Personal information of any individual;
- d. Information which could harm a third party's business or financial interests, including but not limited to trade secrets, or commercial, financial, labour relations scientific or technical information supplied in confidence to the City;
- e. A draft of a by-law, resolution, or other legal instrument by which the City acts, or the substance of private meetings of City Council;

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- f. Advice, opinions, proposals, or recommendations developed by or for the City, or plans developed for the purpose of contractual or other negotiations, or relating to the management of personnel or City administration;
- g. Information regarding pending policy or budgetary decisions;
- h. Communications with the Legal Department, external legal counsel, or any other similar information subject to legal privilege;
- i. Information which could be harmful to a law enforcement matter or legal proceeding;
- j. Information which could be harmful to the economic or financial interests, or negotiating position of the City or the Province of New Brunswick; or
- k. Information relating to testing or audit procedures or techniques or details of specific test or audits to be conducted, if disclosure could reasonably be expected to prejudice the use or results of such tests or audits.

If staff are unsure if a record should or should not be disclosed, they should contact the City Clerk. It may be necessary for the individual to make a formal access to information request under RTIPPA, which is done through the City Clerk's Office.

3. Formal Request Process

The City Clerk is responsible for the administration of formal access to information requests under RTIPPA. Where a request is received for access to a record that does not meet the routine disclosure requirements described above, it should be immediately referred to the City Clerk.

In processing a request made under RTIPPA, the City will adhere to the following access principles:

- a. Process the request without regard to the individual's identity;
- b. Offer reasonable assistance throughout the request process;
- c. Provide information on RTIPPA, including information on the processing of a request and the right to appeal to the Access and Privacy Commissioner of the Province of New Brunswick and/or to the Court of Queen's Bench of the Province of New Brunswick;
- d. Inform applicants without undue delay when a request requires clarification;
- e. Make every reasonable effort to locate and retrieve the requested information;
- f. Apply limited and specific exceptions to the requested information;
- g. Provide accurate and complete responses;
- h. Provide timely access to the requested information; and
- i. Provide information in the format requested where possible.

4. Protection of Privacy Policy

The City is committed to protecting the privacy of its employees and citizens. The City will ensure that the personal information in its care, custody, and control will be collected, used, retained, disclosed and disposed of in compliance with applicable legislation and the following generally accepted privacy principles. By applying the principles below in all areas of personal information management, the City may be confident that personal information will be handled appropriately and in compliance with requirements under RTIPPA and any other applicable privacy legislation.

Principle 1 – Accountability

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Employees are responsible for managing personal information in their care, custody or control in accordance with these principles.

The City Clerk, designated as “Head” for the purposes of RTIPPA, holds overall responsibility for the implementation and administration of this policy.

Principle 2 – Identifying Purposes

The purpose for which personal information is collected will be identified by the City before or during the times the information is collected.

Principle 3 – Consent

The consent of an individual is required for the City to collect, use or disclose of personal information, except where inappropriate.

Principle 4 – Limiting Collection

The City shall limit the collection of personal information to that which is necessary for the administration of City programs and services, and for the purpose(s) identified at the time of collection. Individuals shall not be asked for personal information beyond what is necessary for the identified purpose(s).

Principle 5 – Limiting Use, Disclosure, and Retention

Personal information will not be used or disclosed for purposes other than those for which the City collected it, except with the consent of the individual or as required by law.

Personal information will be retained only as long as necessary for the fulfillment of those purposes or as required by law. Personal information will be disposed of in accordance with retention and disposition schedules as set out in the Municipal Records Authority, as well as all applicable City policies and procedures.

Principle 6 – Accuracy

The City shall take reasonable measures to ensure that personal information in its care, custody or control is as accurate, complete and up to date as is necessary for the purpose(s) for which it is to be used.

Principle 7 – Safeguards

The City will protect and safeguard personal information in its custody or under its control appropriate to the sensitivity of the information.

Principle 8 – Openness

The City shall make readily available to individuals specific information about its policies and practices relating to the management of personal information.

Principle 9 – Individual Access

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Upon request, an individual shall be entitled to access and review their personal information held by the City, and to request revisions related directed to the accuracy and completeness of the personal information.

Principle 10 – Challenging Compliance

An individual may address a concern with the City’s compliance with the above principles or this policy in general to the City Clerk.

5. Responsibilities

In order to ensure compliance with RTIPPA and to give effect to the above principles, all departments and employees are responsible for implementation of this Policy, and for ensuring that they are protecting the records in their custody and under their control. In particular:

1. The Strategic Management Group shall:

- a. provide corporate leadership and support for ensuring that records are being effectively managed and maintained: and
- b. provide leadership and necessary support for ensuring that RTIPPA and related City guidelines and policies are adhered to.

2. The City Clerk shall act as corporate records officer and shall:

- a. provide leadership for records management with respect to policy, standards, training, quality assurance, and in conjunction with Information Systems will facilitate the development, maintenance and improvement of records keeping solutions and tools;
- b. recommend procedures, standards and guidelines;
- c. recommend and implement policies relating to records and RTIPPA;
- d. provide direction, co-ordinate training and technical advisory services;
- e. identify the tools, facilities and staff necessary for service delivery; and
- f. process and record Formal RTIPPA access to information requests

3. Directors shall:

- a. ensure staff are trained in the management of records;
- b. ensure records within their keeping adhere to the retention and disposition schedules as set out in the Municipal Records Authority;
- c. Identify contracts or other arrangements with third parties which may involve the collection, use, disclosure, or accessing of personal information, and ensure that the proper safeguards are in place for the protection of such personal information;
- d. Immediately report all incidents of unauthorized disclosure of personal information and other privacy breaches to the City Clerk; and
- e. (e.g. damage, theft, misuse, privacy complaints or unauthorized disposition of records)
- f. respond within prescribed timeframes to requests by the City Clerk for information or records in their care, custody or control in relation to formal RTIPPA access to information requests.

4. The Legal Department shall:

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- a. ensure compliance with RTIPPA and any related legislation, and ensure the existence and currency of necessary supporting policies and by-laws where applicable;
- b. provide legal advice where necessary in response to requests for access to information;
- c. consult and provide advice in the event of a breach of privacy; and
- d. provide legal advice where necessary to ensure that contracts for goods or services with third parties which may involve the collection, use, disclosure or access to personal information contain the proper contractual safeguards to protect such personal information.

5. The Information Systems Department shall:

- a. ensure, in consultation with the Legal Department as required, that all contracts with hardware or software providers for goods or services which may involve the collection, use, disclosure or access to personal information contain the proper contractual safeguards to protect such personal information;
- b. advise on security measures to be used by City personnel when accessing the City of Moncton network or any other records which may contain personal information; and
- c. ensure that RTIPPA requirements are taken into consideration as new technology is introduced.

6. Emergency Situations

In the event of an emergency, every effort will be taken to ensure that the aforementioned procedures will be followed to protect personal and confidential information.

For questions, comments, or to arrange training for staff, please contact:

Barbara Quigley, Director of Legislative Support/City Clerk
City of Moncton
655 Main St
Moncton, NB E1C 5V1
barb.quigley@moncton.ca
506-853-3547

7. Administration and Contact

City Hall
655 Main St., Moncton, NB E1C 1E8
Telephone: 506.853.3550
Email: info.clerk@moncton.ca