

	<b>POLICY</b>	<b>Department:</b> Administration
	<b>RIGHT TO INFORMATION AND PROTECTION OF PRIVACY</b>	
<b>Effective Date:</b> March 13, 2023		<b>Last Reviewed Date:</b> January 19, 2023

## 1. PURPOSE STATEMENT

The purpose of this policy is to enable access to records in the custody, or produced by, the municipality of Salisbury, pursuant to this Policy and provincial legislation. This Policy also outlines the manner in which the municipality collects personal information of individuals and the manner in which these records and this information is protected.

## 2. DEFINITIONS

- **“Act”** means the *Right to Information and Protection of Privacy Act*, SNB 2009, c. R-10.6;
- **“Chief Administrative Officer”** means the head of the municipal administration. The individual is the only employee who reports directly to Council (“CAO”);
- **“Clerk/Treasurer”** means the employee appointed as the municipal Clerk, pursuant to section 74(1) of the Local Governance Act, SNB 2018, c.18.;
- **“Discretionary Exemptions”** refer records that will be withheld in the event of an RTIPPA request, at the discretion of the head of a public body, pursuant to Sections 24-33 of the *Act*;
- **“Employee”** means an individual or organization hired by the municipality to perform work, including permanent and part-time employees and those contracted to provide work or services;
- **“Identifying Information”** means information that identifies an individual or which it is reasonably foreseeable in the circumstances could be utilized, either alone or with other information, to identify an individual;
- **“Mandatory Exemptions”** are records that will not be provided in the event of an RTIPPA request as stipulated in Section 4 of the *Act*;
- **“Record”** means, as defined in the *Act*, 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.

Records provided, under the purposes of this Act, only constitute records produced while carrying out municipal business and do not apply to personal records;

- “RTIPPA” means Right to Information and Protection of Privacy Act.

### **3. ACCESS TO INFORMATION**

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

#### **Mandatory Exemptions**

Pursuant to Section 4 of the Act, there are mandatory exemptions in which the municipality must withhold information in the event of an RTIPPA request. This information includes:

- a) information in a court record, a record of a judge, a judicial administration record or a record relating to support services provided to a judge or to a court official;
- b) a record pertaining to legal affairs that relate to the performance of the duties and functions of the Office of the Attorney General;
- c) a note made by or for, or a communication or draft decision of, a person who is acting in a judicial or quasi-judicial capacity;
- d) a record of a member of the Legislative Assembly who is not a Minister of the Crown,
- e) a personal or constituency record of a Minister of the Crown;
- f) a record made by or for an officer of the Legislative Assembly;
- g) a record made by or for an elected official of a local public body relating to constituency matters;
- h) teaching materials of an employee of an educational institution or other research information of an employee of an educational institution;
- i) information the release of which is prohibited under the Security of Information Act (Canada);
- j) a record in the care, custody and control of the Provincial Archives, and;
- k) a record in the care, custody and control of the archives of a public body placed in the archives by or for a person or agency other than the public body.

#### **Discretionary Exemptions**

In addition to the mandatory exemption, pursuant to the Act, a public body can withhold information at their discretion if it constitutes certain types of information. These are considered discretionary exceptions and are at the discretion of the public body. This is covered in sections 24-33 of the Act and includes:

- a) Information the disclosure of which would be harmful to government relations;

- b) Information the disclosure of which would be harmful to relations between New Brunswick and a First Nations council;
- c) Information that would reveal local public body confidences;
- d) Advice, opinions and recommendations given to a public body;
- e) Legal advice given to a public body and other information subject to solicitor-client privilege;
- f) Information the disclosure of which would be harmful to an individual's health or safety or to public safety in general;
- g) Information the disclosure of which would be harmful to law enforcement, corrections or legal proceedings;
- h) Information the disclosure of which would be harmful to the economic or financial interests of a public body;
- i) Information that would compromise the validity of tests, testing procedures and audits;
- j) Confidential evaluations about the eligibility or suitability of a person for employment or an award;
- k) Information that is already or will soon be available to the public.

## 4. REQUEST PROCESS

### **Routine Disclosure**

Before a formal request for information is made, the municipality encourages individuals to explore the municipal website where a number of records and information are readily available and accessible. In the event that the information cannot be found online, individuals are encouraged to direct a request to a specific department. If an individual is still unable to find the information that is being sought, they have the right to request the information under the provisions of RTIPPA and this Policy.

### **Head of a Public Body**

Pursuant to Section 6 of the Act, the Clerk of the Town of Salisbury is considered the head of a public body and is responsible for administering this Policy under the provisions of the Act. In the event of the absence of the Clerk, the CAO serves as the head of the public body for the purposes of administering this policy.

### **Making a Request under Provisions of RTIPPA**

In the event of an RTIPPA request, individuals must undertake one of the following two actions:

- a) Complete an [online form](#);
- b) Complete a [physical form](#), available at the municipal office.

In the request, individuals must identify:

- a) A description of the information being sought, including the subject-matter of the request and the date, time, place, and nature of the event(s). Please be as specific as possible and include the form(s) of records being sought as this information will serve as the nature of records to be identified by the head of the public body;

- b) Name, mailing address, email address, phone number;
- c) A statement that the information is being made as a request for access under the Act;
- d) The name of the business or organization, if applicable, that the information is being sought on behalf of (please note that if information is being requested on behalf of another individual, a certified witnessed form must be provided before the request is considered valid);
- e) Whether you are asking to receive or examine a public record;
- f) Whether you are asking for a copy of a record and if electronic means are requested and are possible, whether the request is to receive the records electronically or not.

Upon receipt of the request, the head of the public body will confirm, in writing, that the request has been received. The date of this confirmation will serve as the official date that the municipality has received the request. In the event that no written confirmation is received, the applicant is encouraged to follow-up to ensure the head of the public body has received the request for processing.

Upon the completion of a request, the head of a public body will inform the individual that the request has been completed. Should the individual request physical copies of records, these are required to be collected at the municipal office. Should the individual request electronic copies, these can be provided over email. In the event that electronic version(s) are too large to be sent to the applicant over email, the municipality will arrange to have the records saved electronically on a portable device to be collected at the municipal office.

All requests for information must be made in writing. Oral requests are only accepted from applicants with limited ability to read and write English or French upon disclosure to the public body.

### **Response Time**

The municipality is required to reply to the applicant, in writing, within 30 business days of receiving a request. This response will outline whether or not the record(s) are provided in whole, in part, or if there is a refusal to disclose the records.

### **Extension(s)**

The head of the public body is able to extend the 30-day time period for an additional 30 business days if:

- There is not enough detail in the request for the municipality to identify the record(s) being sought;
- The request includes a large number of records;
- Responding to the request within the original 30 business day timeframe would interfere unreasonably with the daily operations of a public body;
- The information requested includes information related to a third party, which pursuant to the Act, will be notified of the request and/or that the head of a public body needs to be determined whether it is appropriate to provide access to this third party information;
- The information requested is related to, or part of, court proceedings.

In the event that an extension of 30 business days has been requested by the head of a public body, a request from the municipality to the Ombud can be requested for any additional extension(s). In this instance, the information will not be provided until the Ombud has confirmed with the public body whether or not additional extension(s) will be provided.

### **Responsibilities of the Municipality**

- The 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 Clerk. Regularly, the Clerk should provide information or training to employees on the retention of municipal records.
- In the event that a municipality is seeking authorization to disregard a request, the request must be made in writing to the Ombud.
- The municipality must inform the applicant, in writing, of the status of their request upon either confirming the receipt of request, completing the request, requesting an extension, or dismissing a request.
- In the event that information or record(s) are being withheld, the municipality must note the justification of the omission by noting the applicable section of relevant policies or the Act.
- The municipality must inform the applicant that they have the right to have their decision and/or omissions reviewed by the Ombud and must provide the applicant contact information following the closing of the request.
- Upon receipt of an RTIPPA request, the municipality, through the Clerk, must compile all relevant records. All employees and elected officials, as applicable, must respond within prescribed timeframes for any records that may be in their care in relation to RTIPPA requests.

### **Responsibilities of the Applicant**

- Applicants seeking information are required to do so in writing to the municipality.
- In the event that the public body is required to contact the applicant for clarification, the applicant will have 20 business days to respond. If the applicant does not reply within 20 business days, the request will be considered to be abandoned, and the public body will send a notification to this effect.
- Upon receipt of a request for information, the applicant must pursue any complaint or request for review through the Ombud if the municipality provides their justification for any exemption of any record(s).

## **5. PROTECTION OF PRIVACY**

In the event that personal information is collected, it shall only be used by the public body for the purposes in which it was collected for.

In the interest of protecting personal and identifiable information, the municipality will not disclose any information that meets the definition of personal or identifiable information under the Act. This includes any imagery or records that could reasonably be used to identify personal and identifiable information (including, for instance, photos that identify residential areas that, with other records, could identify an individual).

Individuals or organizations can request from the municipality for any records that may be about them to ensure accuracy and/or make corrections as needed (e.g.: utility accounts).

At any point where personal information is retained (such as for email distribution, billing purposes, completion of a form, etc.), the municipality must disclose how the information is used. Any personal information can only be used for the purposes that are disclosed to the individual or organization.

## **6. COMPLAINT OR REQUEST FOR REVIEW**

Pursuant to Section 15, the head of the public body can make a request to the Ombud to seek authorization to disregard a request(s) in the event that it meets provisions of the Act.

Upon provision of written notice with record(s) or the identification of record(s) that may be withheld, the municipality will identify any applicable justification, either pursuant to applicable policies or sections of the Act, in the event that they must withhold information and/or record(s). In this instance, they must specify the provisions in which the refusal is based. In the event that the applicant does not agree with the response from the public body and/or is not satisfied, they can proceed with requesting a review from the provincial Ombud, pursuant to Section 67(1) of the Act.

In the event that an applicant would like to make a complaint about a public body, including if the municipality does not satisfy the time requirements to fulfill a request, they may do so, pursuant to Act.