

RIGHT TO INFORMATION AND PROTECTION OF PRIVACY POLICY

This policy requires that all Fundy Albert employees adhere to the proper usage, collection, storage, access, use, disclosure, retention and disposal of all personal information in their conduct while performing duties and activities. It also outlines how Fundy Albert collects and protects personal information.

DEFINITIONS:

- **ACT** - means the *Right to Information and Protection of Privacy Act*, SNB 2009, c. R-10.6
- **CHIEF ADMINISTRATIVE OFFICER** - is the head of the municipal administration. The individual is the only employee who reports directly to Council (“CAO”).
- **CLERK** - is appointed pursuant to section 74(1) of the Local Governance Act, SNB 2018, c.18.
- **DISCRETIONARY EXEMPTIONS** – refers to records that will be withheld in the event of an RTIPPA request, at the discretion of the head of a public body, pursuant to Section 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** is information that identifies an individual or which is reasonably foreseeable in the circumstances could be utilized, either alone or with other information, to identify an individual.
- **MANDATORY EXEMPTION:** are records that will not be provided in the event of an RTIPPA request as stipulated in Section 4 of the Act.
- **OMBUD** - are confidential, impartial and independent conflict management professionals who work to resolve complaints with a government organization. An Ombud is appointed under section 2 of the Ombud 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** (Right to Information and Protection of Privacy Act) – legislation that became law in September 2010 giving people the right to request information held or controlled by public bodies. It is meant to help balance the public’s right to know and people’s right to privacy.
- **TREASURER** is appointed pursuant to section 76(1) of the Local Governance Act, SNB 2018, c.18.

ACCESS TO INFORMATION

Records in custody or under the control of Fundy Albert 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, Fundy Albert shall allow the public the right to access 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 is covered in sections 17 -22 and includes:

- a) Executive Council confidences;
- b) Information provided in confidence;
- c) Disclosure harmful to governmental relations;
- d) Information in a law enforcement record for which the disclosure is prohibited;
- e) Information provided by a council of the band;
- f) Information from a harassment, personnel or university investigation;
- g) Unreasonable invasion of third party's privacy;
- h) Information subject to a solicitor-client privilege of a third party;

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

THE REQUEST PROCESS

Before a formal request for information is made, Fundy Albert encourages people to explore the municipal website where several records and information are readily available and accessible. In the event that the information cannot be found online, they have the right to request the information from Fundy Albert under the provisions of RTIPPA and this policy.

Head of a Public Body

Pursuant to Section 6 of the Act, the Clerk of Fundy Albert 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 Treasurer or/CAO serves as the head of the public body for the purposes of administering this policy.

Making a Request for Information

To make a request, individuals are required to complete a physical form which can either be downloaded [here](#) or picked up at the Fundy Albert office located at 61 Academy St., Hillsborough, NB E4H 2R4

In the request you will need to have the following information

- a) A description of the information being sought, including date, time, place and subject matter. Please be as specific as possible and include what form of records you are seeking; this will assist the head of the public body in identifying the nature of the records being sought.
- b) Name, mailing address, email, and phone number
- c) A statement that the information is being made as a request for access under the Act.
- d) If applicable, the name of the business or organization that the information is sought on behalf of: ***(Please note that if information is being requested on behalf of someone, a certified witnessed form must be provided before the request will be considered.)***
- 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 send confirmation, in writing (email is acceptable), that the request has been received. This confirmation will serve as the official date that Fundy Albert received the request. The individual may request physical copies, which would have to be picked up at the office, or electronic copies that can be provided by email. In the event the electronic version is too large to be sent via email, the head of the public body may arrange to have the records saved on a portable device to be collected at the municipal office.

All requests for information must be made in writing (email is acceptable). Oral requests will only be accepted from applicants with limited ability to read or write English upon disclosure to the public body.

RESPONSE TIME

Fundy Albert is required to reply to the applicant, in writing (email is acceptable), within 30 business days of receiving the request. This response must include whether or not the record(s) will be provided in whole, in part, or if there is a refusal to disclose the record(s)

EXTENSIONS

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

- a) There is not enough detail in the request for Fundy Albert to identify the record(s) being sought
- b) The request included a large number of records
- c) Responding to the request within the original 30 business day timeframe would interfere unreasonably with the daily operation of a public body
- d) The information requested includes information relate 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 party information.
- e) The information requested is related to, or part of, court proceedings.

Responsibilities of the Municipality

- a) 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.
- b) In the event that a municipality is seeking authorization to disregard a request, the request must be made in writing to the Ombud
- c) The municipality must inform the applicant, in writing (email is acceptable), of the status of their request upon either confirming the receipt of request, completing the request, requesting an extension or dismissing a request.
- d) In the event the 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*.
- e) The municipality must inform the applicant that they have a right to appeal and to have their decision and/or omissions reviewed by the Ombud and must also supply contact information once the decision of the request is completed
- f) When an RTIPPA request has been received, the municipality, through the Clerk, must compile all relevant documents. All employees and elected officials must respond within the timeframe allotted for all records that may be in their care in relation to the RTIPPA request

Responsibilities of the Applicant

- a) Applicants must make all requests in writing (email is acceptable) to the municipality
- b) If the public body has any questions regarding the applicant's request, the applicant will have 20 business days to respond. If the applicant does not reply within the 20-day period, the request will then be considered an abandoned request, at which time the public body will send a notification to this effect.

- c) 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).

PROTECTION OF PRIVACY

In the event that personal information is collected, it shall only be used by the public body for the purpose 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 or identifiable information (including, for example, photos that identify residential areas that with other records, could identify an individual).

At any point where personal information is retained (such as 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 purpose it was obtained for and disclosed to the individual or organization.

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 if 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*, if they must withhold information and/or records(s). In this instance, they must specify the provisions on which the refusal is based. If 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*.