



Town of Whitby Policy

Policy Title:	Corporate Access and Privacy Policy
Policy Number:	CA 060
Reference:	Municipal Freedom of Information and Protection of Privacy Act, Council Resolution #204-16
Date Originated:	April 18, 2016
Date Revised:	Not applicable
Review Date:	April 18, 2021
Approval:	Council
Point of Contact:	Town Clerk

Policy Statement

The Corporation of the Town of Whitby is committed to providing a right of access to information and protection of privacy under the custody and/or control of the Town in accordance with the principles of the Municipal Freedom of Information and Protection of Privacy Act, 1990, as amended.

Purpose

The purpose of this policy is to ensure fair and equitable access to corporate records and information in the custody and/or control of the Town, for the protection of personal information collected, used, disclosed and disposed of by the Town of Whitby.

Scope

This policy applies to all Town departments, employees, volunteers, and third-party contractors and records in the custody and/or under the control of the Town.

Index

1	Definitions	2
2	Municipal Freedom of Information and Protection of Privacy Act	2
3	Roles and Responsibilities	3
4	Right of Access and Exemptions	3
5	Protection of Privacy	4
6	Right of Correction	5

1 Definitions

- 1.1 **Act** means the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA).
- 1.2 **Collection** means the collection of personal information from or about the individual to whom the information relates including unintended or unprompted receipt.
- 1.3 **Control** (of a record) means the power or authority to make decisions about the use or disclosure of the record.
- 1.4 **Custody** (of a record) means the keeping, care, watch, preservation or security of the record for a legitimate business purpose.
- 1.5 **Disclosure** means the release of personal information by any method (e.g. sharing information by any means such as verbally, sending an email, posting online) to anybody or person.
- 1.6 **IPC** means the Information and Privacy Commissioner of Ontario. The IPC is an independent, oversight body appointed by the Lieutenant Governor. The IPC is responsible for adjudicating and issuing orders related to appeals, investigating privacy complaints, and has certain powers relating to the protection of personal privacy.
- 1.7 **Personal Information** means recorded information about an identifiable individual as defined under the Act.
- 1.8 **Record** means any record of information however recorded, whether in printed form, on film, by electronic means or otherwise as defined under the Act.
- 1.9 **Retention** means the keeping of personal information records in the custody or control of the Town.
- 1.10 **Town** means the Corporation of the Town of Whitby.
- 1.11 **Town Staff** includes all Town departments, Town employees, volunteers and third-party contractors.
- 1.12 **Use** means the purpose(s) for which the information was obtained or compiled.

2 Municipal Freedom of Information and Protection of Privacy Act

- 2.1 The Municipal Freedom of Information and Protection of Personal Privacy Act (MFIPPA) came into effect on January 1, 1991. This Act extends freedom of information and protection of privacy principles to all municipalities in Ontario and to various other institutions such as local boards and commissions.
- 2.2 The purposes of the Act, as per Section 1 of the Act, are as follows,:

- a) To provide a right of access to information under the control of institutions in accordance with the principles that,
- information should be available to the public;
 - necessary exemptions from the right of access should be limited and specific; and,
 - decisions on the disclosure of information should be reviewed independently of the institution controlling the information.
- b) To protect the privacy of individuals with respect to personal information about themselves held by institutions and to provide individuals with a right of access to that information.

2.3 The Act applies to any records in the custody or under the control of the Town and includes records that were created both before and after the Act came into force.

3 Roles and Responsibilities

3.1 In accordance with the Town's MFIPPA Delegation By-law, all of Council is the designated Head for purposes of MFIPPA and delegates the powers and duties as Head to the Town Clerk.

3.2 Manager of Records and Information Management, delegated by the Town Clerk, is responsible for the daily administration of the Act, including receiving and processing access requests, providing advice and communicating with corporate staff, serving members of the public and helping to ensure that the privacy requirements of the Act are met.

3.3 Town staff shall be responsible for becoming familiar with this policy and any related procedures and the principles of the Act.

4 Right of Access and Exemptions

4.1 Every person has a right of access to a record, or part of a record, in the Town's custody or control, unless the release of the record is prohibited under the Act or the Town determines that an exemption for withholding all or part of the record applies.

4.2 Mandatory exemptions prohibit the Town from disclosing particular information. The Town must withhold information falling under a mandatory exemption as per Sections 9, 10 and 14 of the Act. The mandatory exemptions are:

- Personal privacy;
- Inter-governmental relations; and,
- Third party information.

4.3 Discretionary exemptions allow the Town to withhold information at the discretion of the Delegated Head, Town Clerk, as per Sections 6, 7, 8, 11, 12, 13 and 15 of the Act. The discretionary exemptions are:

- Draft By-laws, reports, and records of closed meetings;
- Advice or recommendations;
- Law enforcement;
- Danger to health & safety;
- Economic or other interest;
- Limitations on access to own personal information;
- Solicitor-client privilege, only if waived by Council; and,
- Published information.

5 Protection of Privacy

5.1 Collection of Personal Information

- The Town shall only collect personal information if expressly authorized by statute, necessary for the purpose of law enforcement, or necessary as part of the proper administration of Town operations.
- The Town shall collect personal information directly from the individual to whom the information relates unless pursuant to the Act.
- When collecting personal information in writing, the Town shall provide the individual with a notice of collection statement (see Appendix 2 for example).

5.2 Retention of Personal Information

Personal Information that has been used by the Town shall be retained after use by the Town in accordance with the Town's Record Retention By-law or as noted for the period prescribed by regulation in the Act in order to ensure that the individual whom it relates has a reasonable opportunity to obtain access to the personal information.

5.3 Use of Personal Information

The Town shall use personal information for the purpose for which it was obtained or compiled, or for a consistent purpose, where the individual has identified that information and consented to its use.

5.4 Disclosure of Personal Information

The Town shall not disclose personal information in its custody or under its control except pursuant to the Act.

5.5 Protection of Personal Information

The Town recognizes the importance of protecting personal information and will use appropriate security safeguards to provide the necessary protection.

6 Right of Correction

- 6.1** Every individual who is given access to his or her own personal information has the right to request correction of their personal information where the individual believes there is an error or omission.

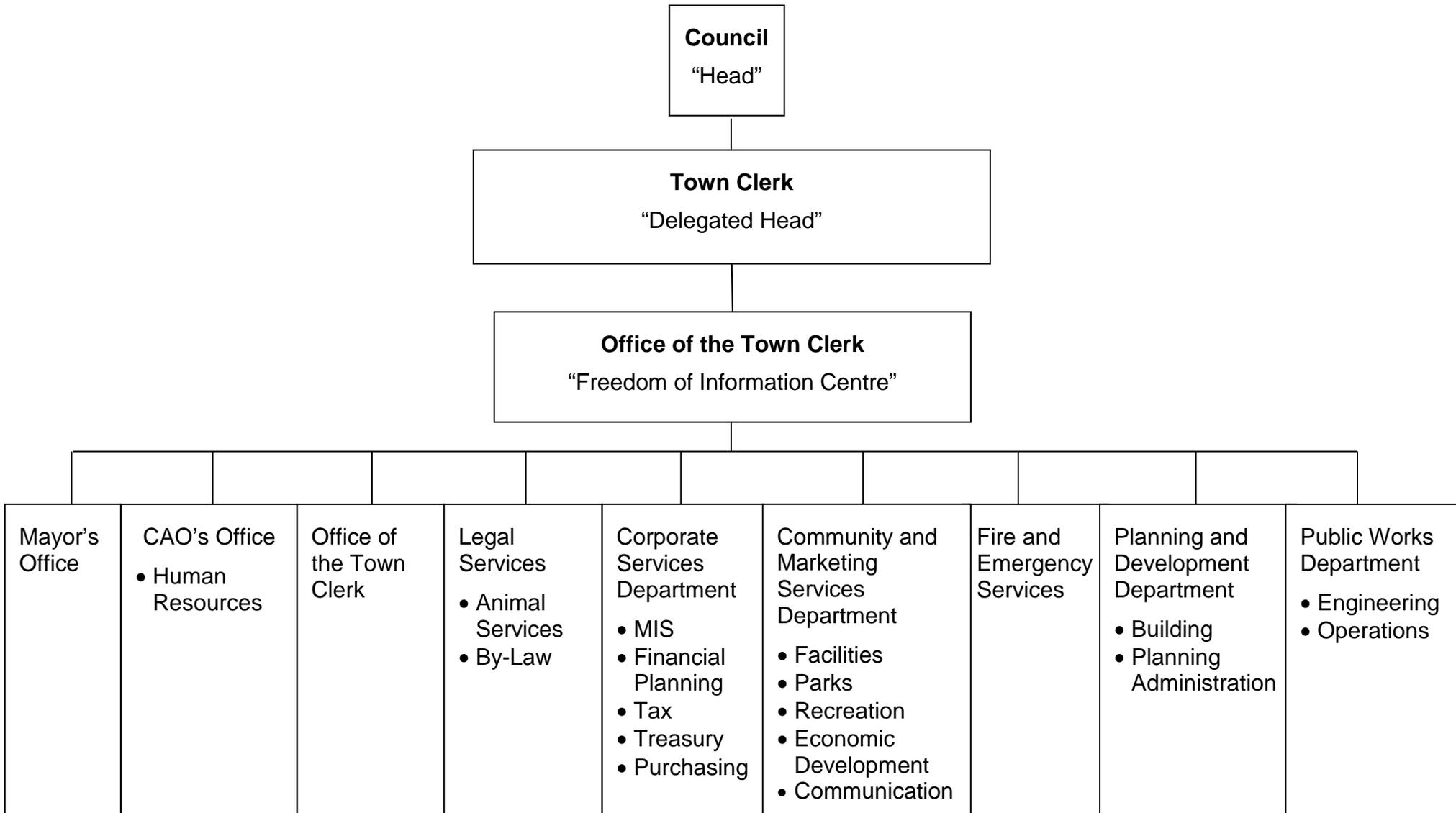
Appendices

Appendix 1 Municipal Freedom of Information and Protection of Privacy
Administrative Structure

Appendix 2 Notice of Collection Clause

This Policy is hereby approved by Council Resolution #204-16 on this 18th day of April, 2016.

Municipal Freedom of Information and Protection of Privacy Act Administrative Structure



Appendix 2

Notice of Collection of Personal Information

Personal information on this form is collected under the authority of the (identify the legislation), for purposes of (insert purpose). Questions about the collection should be directed to (contact information).

Examples:

Human Resources:

Personal information on this form is collected under the authority of the Municipal Act, 2001, and will be used to assess qualifications for employment with the Town of Whitby. Questions about this collection should be directed to Human Resource Services, 575 Rossland Road East, Whitby, Ontario, L1N 2M8 905.430.4313.

Recreation Program:

Personal information on this form is collected under the authority of the Municipal Act, 2001, and will be used for the registration purposes in requesting recreation program(s). Questions regarding the collection of personal information should be directed to the Manager of Recreation, 500 Victoria Street West, Whitby, ON L1N 9G4 905.430.4310.

Building Application:

Personal information contained in this form and schedules is collected under the authority of subsection 8(1.1) of the *Building Code Act, 1992*, and will be used in the administration and enforcement of the *Building Code Act, 1992*. Questions about the collection of personal information may be addressed to: a) the Chief Building Official of the municipality or upper-tier municipality to which this application is being made, or, b) the inspector having the powers and duties of a chief building official in relation to sewage systems or plumbing for an upper-tier municipality, board of health or conservation authority to whom this application is made, or, c) Director, Building and Development Branch, Ministry of Municipal Affairs and Housing 777 Bay St., 2nd Floor. Toronto, M5G 2E5 (416) 585-6666.

Freedom of Information Request:

Personal Information contained on this form is collected pursuant to the Municipal Freedom of Information and Protection of Privacy Act, 1990, and will be used for the purpose of responding to your request. Questions about this collection should be directed to the Town Clerk, 575 Rossland Road East, Whitby, ON, L1N 2M8 905.430.4315.