


# POLICY

	Policy:	<b>Routine Disclosure and Active Dissemination</b>		
	Department:	Office of the Chief Administrative Officer		
	Division:	Clerks Division	By-Law No.:	N/A
	Administered By:	Clerk	Approval Date:	Mar. 25, 2024
	Replaces:	N/A		
	Attachment(s):	N/A		

## 1. POLICY STATEMENT

The Corporation of the Town of Amherstburg is committed to ensuring public access to municipal records in accordance with the Town's commitment to accountability and transparency, as well as the principles of the *Municipal Act*, and the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA).

The routine disclosure and active dissemination policy was developed to ensure that the Town of Amherstburg is proactive, efficient, open and accountable, while respecting personal privacy. These principles are the focus of the Information and Privacy Commissioner of Ontario's *Access by Design* and *Privacy by Design* guidance documents.

## 2. PURPOSE

- 2.1. This policy supports the principle of public access to municipal records that are able to be routinely disclosed and actively disseminated while ensuring the protection of personal and confidential information.
- 2.2. This policy supports efforts to continually improve public access to records and information and a culture of accountability and transparency.
- 2.3. This policy defines guidelines for Administration in the determination of whether classifications of records can be identified for routine disclosure and active dissemination activities.

## 3. SCOPE

- 3.1. This policy applies to public records in the custody of the Town of Amherstburg and does not apply to information or records which may be subject to an exemption under the *Municipal Freedom of Information and Protection of Privacy Act, 1990*, or any other law, policy or agreement.
- 3.2. This policy shall be reviewed every five (5) years from the date it becomes effective, and/or sooner at the discretion of the CAO, or designate.

## 4. DEFINITIONS

- 4.1. **Active Dissemination** refers to the periodic release of government records in the absence of a request.
- 4.2. **Confidential Information** is information subject to exceptions outlined in *MFIPPA* or information which the Town of Amherstburg has deemed confidential.

- 4.3. **Freedom of Information (FOI) Request** – A formal request made under MFIPPA.
- 4.4. **MFIPPA** – *Municipal Freedom of Information and Protection of Privacy Act, 1990*.
- 4.5. **MFIPPA Coordinator** for the Town of Amherstburg is the Clerk.
- 4.6. **Personal Information** is recorded information about an identifiable individual (not a corporation, partnership or sole proprietorship), including information relating to:
  - 4.6.1. Race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual;
  - 4.6.2. Education, medical, psychiatric, psychological, criminal or employment history, financial transactions;
  - 4.6.3. Any identifying number, symbol, address, telephone number, fingerprints or blood type;
  - 4.6.4. Personal opinions or views of the individual except if they relate to another individual, and views or opinions of another individual about the individual;
  - 4.6.5. Correspondence sent to the Town which is implicitly or explicitly of a private or confidential nature and replies to the correspondence;
  - 4.6.6. The individual's name if it appears with any other personal information.
- 4.7. **Personal Information Bank (PIB)** is a collection of personal information that is organized and capable of being retrieved.
- 4.8. **Record** refers to all recorded information, regardless of structure or form, created, captured, received or maintained by the municipality and which serves as documentary evidence of daily activities. Records are valuable corporate assets of the Town of Amherstburg. Records may include, but are not limited to: correspondence, email, memoranda, invoices, minutes, photographs, maps, plans, drawings, microforms, books, reports, etc. The Town's Records Retention Schedule identifies what constitutes a record in accordance with a modified TOMRMS structure.
- 4.9. **Request** is a request for access to or copies of a record which is submitted in writing detailing the requested records, is dated and signed by the requester.
- 4.10. **Responsible Department** shall refer to the department that currently has control or custody of the record.
- 4.11. **Routine Disclosure** is the routine release of certain types of administrative and operational records which have been identified by the Clerk for the possibility of release through a Routine Disclosure Request, rather than formal requests under MFIPPA.
- 4.12. **Routine Disclosure Request** is a request for access to, or copies of, a record (or records) which is submitted in writing detailing the requested record or records, is dated and signed by the requester and for which the identified record(s) may be of a certain type of administrative or operational record which is routinely disclosed. Such a request must be

limited in nature and not represent an Administrative burden. Such a request may entail fees, as appropriate and is subject to Administrative review where the request may be more appropriately handled under the *Municipal Freedom of Information and Protection of Privacy Act*, as determined by the Clerk.

- 4.13. **Third Party Information** is any person, group of persons or organizations whose interest might be affected by disclosure, other than the person, group of persons, or organization making a request for access. Where the third party is an individual, another person may in some cases, exercise his or her right.

Common definitions, acronyms, and terms are available in the Glossary located on the Town's Policies webpage.

## 5. INTERPRETATIONS

Any reference in this policy to any statute or any section of a statute shall, unless expressly stated, be deemed to be reference to the statute as amended, restated or re-enacted from time to time. Any references to a by-law or Town policy shall be deemed to be a reference to the most recent passed policy or by-law and any replacements thereto.

## 6. GENERAL CONDITIONS

### 6.1. **Active Dissemination**

- 6.1.1. The Town of Amherstburg is committed to making key records available to the public, where possible, on the Town website, through media releases, notices, pamphlets, newspapers, advertising, or, for review at the municipal facilities.
- 6.1.2. The active dissemination of records will be done in accordance with all applicable legislation and Town policy.
- 6.1.3. The Clerk may, in accordance with all applicable legislation, Town policy and based upon available resources, identify records and/or record classifications (classes) to be provided by way of active dissemination.

### 6.2. **Routine Disclosure**

- 6.2.1. The Town's Records Retention Schedule utilizes The Ontario Municipal Records Management System (TOMRMS), which provides record classifications. The Clerk is empowered to evaluate record classes which may be considered, in whole, or in part, for Routine Disclosure and to maintain an index of associated records which shall be publicly posted with the Routine Disclosure request application.
- 6.2.2. Record Classes and/or records identified for Routine Disclosure, in whole or in part, may be released, upon request, subject to Administrative review and in accordance with the governing rules listed below and exceptions in the *Municipal Freedom of Information and Protection of Privacy Act*, 1990, or other legislative, policy, or contractual agreements.

## 6.3. Rules Governing Routine Disclosure Requests

### 6.3.1. Requests

- 6.3.1.1. Routine disclosure requests are required to be submitted, in writing, to the Clerks Division utilizing the established process.
  - a. Where the a Routine disclosure request may be subject to consideration under the *Municipal Freedom of Information and Protection of Privacy Act*, 1990, in the sole determination of the municipality, a freedom of information request may be required.
  - b. Where the fulfillment of a routine disclosure request may be deemed to be excessive, in the sole determination of the municipality, a freedom of information request may be required.
  - c. It is understood that Routine Disclosure requests are not part of the regular assigned duties of any respective area and the quantity of requests may affect available resources and Council adopted service levels. For this reason, where the volume of requests from a shared source are considered excessive, in sole determination of the municipality, a freedom of information request may be required.
- 6.3.1.2. If a routine disclosure request is denied, the requestor may submit a formal Freedom of Information Request (FOI) to the Clerk, subject to applicable fees.
- 6.3.1.3. Records related to regular routine disclosure requests may be made available within 10 business days, contingent on factors affecting access and disclosure.
- 6.3.1.4. An estimate may be provided outlining the amount of time that a routine disclosure request may take for large volumes of records, records stored off-site, archived, in a fragile state or an inaccessible format, where response may take longer.

### 6.3.2. Conditions of Release

- 6.3.2.1. To confirm the identity of the requestor, identification may be requested in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*, 1990, Reg. 823, s. 2 (3).
- 6.3.2.2. Where access is requested on behalf of a third party, proof of representation may be requested to confirm that the party is in fact an authorized agent, where applicable.
- 6.3.2.3. Conditions on the release of records shall be applied as required by legislation, Town policy, and contractual agreement. Additional conditions on release may be required as appropriate.

6.3.2.4. A staff member must be present at all times when a requestor is viewing an original record in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*, 1990, Reg. 823, s. 2 (1)(2).

### 6.3.3. **Personal and Confidential Information**

6.3.3.1. Personal information will not be released, except in accordance with exceptions provided in section 14 of the *Municipal Freedom of Information and Protection of Privacy Act*, 1990. Personal information may be redacted in response to a Routine Disclosure request. Requests for records containing personal information may be denied, requiring a formal Freedom of Information (FOI) request.

6.3.3.2. The Town of Amherstburg is committed to the confidentiality of third party information that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, if the disclosure could reasonably be expected to cause harm to the interests of the third party. This includes copyrighted records and information. Where such determinations may be required, a formal freedom of information request may be required.

6.3.3.3. Confidential information, as defined in the *Municipal Freedom of Information and Protection of Privacy Act*, 1990, or information that is determined to be confidential by the Town or provided in confidence to the Town, will not be released.

6.3.3.4. If the personal information in the record is not that of the requestor or an agent of the requestor, the information will be redacted, unless authorized by legislation or in writing by the individual to whom the information pertains.

### 6.3.4. **Availability of Records**

6.3.4.1. Reproductions (digital or paper) of records may be provided if the request pertains to archived or permanent records considered too fragile for public viewing.

6.3.4.2. Records stored off-site or archived may not be immediately available and may require extra time in order to fulfill the request.

6.3.4.3. In response to a request, the Town of Amherstburg is not required to create records which do not otherwise exist.

6.3.4.4. The Town of Amherstburg is not required to restore or recreate records which have been destroyed in accordance with the Records Retention Policy of the Town of Amherstburg.

## 6.4. **Fees**

6.4.1. Fees may apply in accordance with the current User Fees By-law.

## 6.5. Documentation

6.5.1. A register of all Routine Disclosure requests received shall be maintained.

## 7. RESPONSIBILITIES

7.1. **Council** has the authority and responsibility to:

7.1.1. Adopt the *Routine Disclosure and Active Dissemination Policy*.

7.1.2. Ensure adequate resources are provided to enable reasonable measures respecting records in the custody or under the control of the institution are developed, documented and put into place to preserve records in accordance with any recordkeeping or record retention requirements, rules or policies, whether established under an Act or otherwise, that apply to the Town of Amherstburg.

7.2. The **Senior Management Team (SMT)** has the authority and responsibility to:

7.2.1. Ensure the protection of privacy and personal information collected, received or maintained by their respective department.

7.2.2. Oversee activities of staff related to requests for routine disclosure requests and active dissemination activities within their respective department.

7.3. The **Clerk** has the authority and responsibility to:

7.3.1. Ensure the review of Routine Disclosure requests received and any release of records to determine whether a request may be governed by the Routine Disclosure process or constitute a Freedom of Information (FOI) request.

7.3.2. Establish and maintain a schedule of records for routine disclosure and active dissemination.

7.3.3. Provide information and guidance on the formal Freedom of Information (FOI) request process.

7.4. The **Management** have the authority and responsibility to:

7.4.1. Ensure appropriate training is provided to staff regarding the protection of personal privacy and the maintenance of confidentiality in their duties.

7.5. **Staff** have the authority and responsibility to:

7.5.1. Abide by the *Routine Disclosure and Active Dissemination Policy*.

7.5.2. Direct requests for access to records under the Routine Disclosure request process or MFIPPA process to the Clerk, or designate.

7.5.3. Respond to Routine Disclosure requests received from the Clerk and provide requested information to the Clerk or designate.

7.5.4. Protect personal, confidential and third party information at all times.

## 8. REFERENCES AND RELATED DOCUMENTS

8.1. Accountability and Transparency Policy

8.2. *Municipal Act*

8.3. *Municipal Freedom of Information and Protection of Privacy Act*

8.4. Access by Design / Privacy by Design, Information and Privacy Commissioner of Ontario