



CITY OF POINTE-CLAIRE

GOVERNANCE FRAMEWORK POLICY ON THE PROTECTION OF PERSONAL INFORMATION

**Approved by the City's Committee for Access
to Information and Protection of Personal
Information**

November 29, 2023

Submitted to City Council

December 5, 2023

Table of Contents

1. Preamble	3
2. Subject.....	3
3. Normative framework	3
4. Definitions	3
5. Scope.....	4
6. Processing of personal information	5
7. Registers	7
8. Privacy Impact Assessment	8
9. Research activities and access to personal information.....	9
10. Surveys.....	9
11. Rights of persons concerned	10
12. Processing of complaints.....	10
13. Security of personal information	11
14. Confidentiality incidents	11
15. Roles and responsibilities	11
16. Awareness activities	13
17. Sanctions	13
18. Updates	13
19. Coming into force	14

1. **Preamble**

As part of its activities and mission, the City of Pointe-Claire (hereinafter referred to as the “City”) processes personal information, specifically that of its website users, citizens and employees. It thus recognizes the importance of respecting privacy and protecting the personal information it gathers.

To fulfil its obligations regarding this matter, the City has adopted the present policy. The policy sets out the framework principles applicable to the protection of personal information that the City holds throughout its life cycle and to the rights of the persons concerned.

The protection of personal information held by the City is the responsibility of any person who process this information. These persons must understand and respect the principles of protection of personal information inherent in performing their duties or which arise from their relationship with the City.

2. **Subject**

This policy:

- Sets out the principles underlying the City's governance over personal information throughout its life cycle and the exercise of the rights of the persons concerned;
- Provides for the processing of complaints related to the protection of personal information;
- Defines the roles and responsibilities regarding the protection of personal information at the City;
- Describes the training and awareness activities that the City offers to its employees.

3. **Normative Framework**

This policy is part of a context governed in particular under the Act Respecting Access to Documents Held by Public Bodies and the Protection of Personal Information (CQLR, ch. A-2-1.) and other applicable municipal laws. In accordance with this act, this policy is available on the City's website (<https://www.pointe-claire.ca>).

4. **Definitions**

For the purposes of this policy, the following terms mean:

“**Act**”: Specifically the Act Respecting Access to Documents Held by Public Bodies and the Protection of Personal Information (CQLR, ch. A-2.1).

“**CAI**”: Commission d'accès à l'information du Québec.

“**Committee**”: The City's Committee for Access to Information and Protection of Personal Information.

“Confidentiality incident”: Any unauthorized consultation, use or communication of personal information, or any loss or other breach of the protection of this information.

“Life cycle”: All steps involved in the processing of personal information, namely the collection, use, communication, conservation and destruction of said information.

“Person concerned”: A natural person to whom the personal information relates.

“Person in Charge of Access to Documents” or “PAD”: The person who, within the City, carries out this duty and must respond to requests for access to documents in accordance with the law.

“Person in Charge of Protection of Personal Information” or “PPPI”: The person who, within the City, carries out this duty and ensures compliance and enforcement of the Act regarding the protection of personal information.

“Personal information”: Any information concerning a natural person that allows them to be identified directly, either by using this information by itself or indirectly, or by combining it with other information.

“Privacy impact Assessment” or “PIA”: The preventive approach aiming to better protect personal information and respect the privacy of individuals. This assessment consists of considering all factors that would have positive and negative consequences on the respect of the private life of persons concerned.

“Sensitive personal information”: Any personal information that, by its nature, or because of the manner in which it is used or communicated, gives rise to a high level of reasonable expectation of privacy.

5. Scope

This policy applies to the personal information held by the City and to any person processing personal information held by the City.

6. Processing of personal information

6.1. Collection

6.1.1. The City only collects personal information needed to carry out its mission and activities. Before collecting personal information, the City defines the purposes of processing said information. The City only collects personal information needed for the purposes indicated.

6.1.2. Personal information is collected from the person concerned.

6.1.3. At the time of collection, and subsequently upon request, the City informs the persons concerned, in particular, of the purposes and methods of processing their personal information and about their rights regarding this information, for example, by means of a privacy policy or a notice to this effect.

6.1.4. When the law requires obtaining consent, it must be evident, free, explicitly stated and given for specific purposes. For each of these purposes, it must be put in simple and clear terms. This consent is only valid for the time needed to achieve the purposes for which it was requested.

6.2. Use

6.2.1. The City only uses personal information for the purposes for which this information was collected. However, the City may modify these purposes if the person concerned consents in advance.

6.2.2. The City may also use them for secondary purposes without the consent of the person concerned, in one of the following cases:

- When the use is for purposes compatible with those for which the information was collected;
- When the use is clearly for the benefit of the person concerned;
- When the use is necessary for the application of a Québec law, whether or not this use is expressly provided for under the law;
- When the use is necessary for study, research or statistical production purposes, and the information is depersonalized.

6.2.3. When the City uses personal information for secondary purposes in one of the first three cases listed in section 6.2.2, it must record such use in the register provided for this purpose, as described in section 7.1.3.

6.2.4. When the law expressly provides for it or when processing of personal information is deemed to pose a greater risk for the persons concerned, the City shall conduct a PIA under section 8 hereof in order to minimize the identified risks.

6.2.5. The City shall establish and maintain an updated inventory of the personal information files that it collects, uses and communicates. This inventory contains at least:

- The categories of the information it contains, the purposes for which the information is kept, and the method of management of each file;
- The origin of the information included in each file;
- The categories of persons concerned by the information included in each file;

- The categories of persons who have access to each file in the performance of their duties;
- The security measures taken to ensure the protection of personal information.

6.2.6. Any person who makes a request has the right to access this inventory, except with regard to information whose confirmation of its existence may be refused under the provisions of the law.

6.3. Communication

6.3.1. Subject to the exceptions provided for under the law, the City cannot communicate personal information without the consent of the person concerned. Consent must be given explicitly when sensitive personal information is involved.

6.3.2. When personal information is communicated to a representative or a service provider as part of a mandate, a service contract or for the execution of a mandate, the City must, except in cases where the mandate is entrusted to a professional member of a professional order or another public body, enter into an agreement, including the City's standard contractual provisions, with the service provider or representative.

6.3.3. When personal information is communicated to third parties outside Québec, the City conducts a PIA in accordance with section 8 hereof. Communication to third parties is recorded in the register provided for this purpose.

6.4. Conservation

6.4.1. The City takes reasonable measures to ensure that the personal information it holds is up to date, accurate and complete to serve the purposes for which it is collected or used.

6.4.2. The City retains personal information for as long as necessary to carry out its activities, subject to deadlines provided for in its conservation schedule.

6.5. Destruction and anonymization

6.5.1. When the purposes for which the personal information was collected are achieved, this information is destroyed or anonymized, subject to the Archives Act (CQLR, ch. A-21.1), and following the deadlines provided for in the conservation schedule and the City records management rules.

7. Registers

7.1. In accordance with the Act, the City maintains the following registers:

7.1.1. Register of communications of personal information without the consent of a person concerned in the following cases:

- When the City communicates the identity of a person concerned to an individual or a private organization in order to collect information already collected by the latter;
- When the City communicates personal information needed to apply an act in Québec, whether or not this communication has been expressly provided for by the act;
- When the City communicates personal information needed to apply a collective agreement, an order, an ordinance, a directive or a by-law, which establishes working conditions;
- When the City communicates personal information to a representative or service provider as part of a mandate or service contract;
- When the City communicates personal information for study, research or statistical purposes;
- After conducting a PIA, when the City communicates personal information in the cases covered by section 68 of the Act.

7.1.2. In the cases referred to in Subsection 7.1.1, the register includes:

- The nature or type of information communicated;
- The person or organization receiving this communication;
- The purpose for which this information is communicated, and the indication, where applicable, that it concerns communication of personal information outside Québec;
- The reason justifying this communication.

7.1.3. Register of collection agreements signed for the purposes of performing duties or implementing a program of a public body with which the City works for the providing of services or the achievement of a common mission. This register includes:

- The name of the organization for which the information is collected;
- Identification of the program or the assignment for which the information is required;
- The nature or type of service provided or mission;
- The nature or type of information collected;
- The purpose for which this information is collected;
- The category of persons, within the organization, collecting the information, and within the receiving organization, who has access to the information.

7.1.4. Register of uses of personal information within the City for other purposes and without the consent of the person concerned when this use is compatible with the purposes for which the information was collected, and is clearly for the benefit of the person concerned or that it is necessary for the application of an act in Québec. This register includes:

- The mention of the subparagraph of the second paragraph of section 65.1 of the Act allowing the use, i.e., the applicable legal basis;
- In the case referred to in subparagraph 3 of the second paragraph of section 65.1 of the Act, the legislative provision, which makes the use of the information necessary;
- The category of persons who have access to the information for the purposes of the indicated use.

7.1.5. Register of communications of information regarding a confidentiality incident to a person or organization likely to reduce the risk of serious harm associated with a confidentiality incident.

7.1.6. Confidentiality Incident Register. This register includes:

- A description of the personal information affected by the incident or if this information is not known, the reason justifying the impossibility of providing such a description;
- A brief description of the circumstances of the incident;
- The date or period when the incident took place, or if the latter is not known, an approximation of this period;
- The date or period during which the organization became aware of the incident;
- The number of persons concerned by the incident, or, if not known, an approximation of this number;
- A description of the elements that lead the organization to conclude that there is or is not a risk that serious harm will be caused to the persons concerned, such as the sensitivity of the personal information concerned, the possible malicious uses of this information, the anticipated consequences of its use and the likelihood that it will be used for harmful purposes;
- If the incident poses a risk that serious harm will be caused, the dates of transmission of the notices to the CAI and to the persons concerned, pursuant to the second paragraph of section 63.8 of the Act, as well as a statement indicating whether public notices have been given by the organization and why, if applicable;
- A brief description of the measures taken by the organization, following the occurrence of the incident, in order to reduce the risk of harm being caused.

8. Privacy Impact Assessment

8.1. The City conducts a PIA, namely in the context of the following processing methods for personal information:

- Before undertaking a project to acquire, develop and redesign an information or electronic service delivery system that involves personal information;
- Before collecting personal information needed to carry out the responsibilities or the implementation of a program of a public body with which it collaborates for the providing of services or for the achievement of a common mission;
- Before communicating personal information without the consent of the persons concerned;
- For a person or organization who wishes to use this information for study, research or statistical production purposes;

- When the City intends to communicate personal information, without consent of the persons concerned, in accordance with section 68 of the Act;
 - When the City intends to communicate personal information outside Québec or entrust a person or organization outside Québec with the care of collecting, using, communicating or conserving such information on its behalf.
- 8.2. In conducting a PIA, the City takes into account the sensitivity of the personal information to be processed, the purposes of its use, its quantity, its distribution and its medium, as well as the proportionality of the measures proposed to protect the personal information.
- 8.3. In addition, when personal information is communicated outside Québec, the City ensures that it benefits from adequate protection, especially with regard to generally recognized principles of protection of personal information.
- 8.4. Conducting a PIA serves to demonstrate that the City has complied with its obligations of protecting personal information and that all measures have been taken to effectively protect this information.

9. Research activities and access to personal information

- 9.1. Researchers may request access to personal information for research purposes. This type of request must be submitted to the person responsible for the protection of personal information.
- 9.2. When the PIA concludes that personal information may be communicated for this purpose, the City, along with the researchers, must enter into an agreement, which the City's standard contractual provisions and any additional measures identified in the PIA.

10. Surveys

Any person, body or other organization that wishes to conduct a survey for the City, in particular, among the persons concerned using personal information held by the City, must do so in accordance with the rules that will be set forth by the Committee for Access to Information and Protection of Personal Information.

11. Rights of persons concerned

- 11.1. Subject to the applicable laws, any person concerned whose personal information is held by the City has the following rights, namely:
- The right to access personal information held by the City and obtain a copy of it, whether in electronic or non-electronic format;
 - Unless this raises serious practical difficulties, computerized personal information collected from a person concerned, and not created or inferred from personal information concerning them, is communicated to them in a structured and commonly used technological format, at their request. This information is also communicated, upon request, to any person or body authorized by law to collect such information;
 - The right to have any incomplete, inaccurate or ambiguous personal information held by the City corrected;
 - The right to be informed, when applicable, that personal information is used to make a decision based on automated processing.
- 11.2. Although the right to access can be exercised at any time, access to documents containing this information is subject to certain exceptions as identified within the law.
- 11.3. Documents containing personal information may be consulted on site or otherwise accessed, with or without payment of a fee. If applicable, the City shall inform the person concerned of the obligation to pay fees before processing their request.
- 11.4. Requests for access to personal information by the persons concerned may be addressed verbally or in writing. Verbal requests will be handled informally, and may not receive a written response.
- 11.5. Requests for access to sensitive personal information must be addressed in writing and will in turn receive a written response.
- 11.6. Requests for access to personal information must be sufficiently specific to allow the PPPI to locate said personal information. The right to access only applies to existing personal information.

12. Processing of complaints

Any complaint relating to the City's personal information protection practices or its compliance with the requirements of the Act concerning personal information must be sent to the PPPI, which must respond within a delay of thirty (30) days. Any complaint must be submitted in writing.

13. Security of personal information

- 13.1. The City implements reasonable security measures to ensure the confidentiality, integrity and availability of personal information collected, used, communicated, conserved or destroyed. These measures take into account, in particular, the degree of sensitivity of the personal information, the purpose of its collection, its quantity, its location and its medium.
- 13.2. All City employees are subject to a strict code of ethics and good conduct regarding the protection of personal information. Pursuant to this code, only employees who need access to personal information in the context of their duties may have access to it.

14. Confidentiality incidents

- 14.1. The City takes reasonable measures to prevent confidentiality incidents and reduce the risk of harm being caused, as well as prevent new incidents of the same nature from occurring.
- 14.2. Any confidentiality incident is reported to the PPPI and is recorded in the Confidentiality Incident Register, in accordance with section 7.1.6 of this policy.
- 14.3. If the confidentiality incident poses a risk of serious harm to the persons concerned, the City shall promptly notify them, as well as the CAI.

15. Roles and responsibilities

- 15.1. The protection of personal information held by the City is based on the commitment of all those processing this information, and more particularly the following sections.
- 15.2. The PPPI:
 - Ensures the protection of personal information throughout its life cycle, from collection to destruction;
 - Sits on the Committee;
 - Complies with requirements related to requests for access or rectification, subject to the responsibilities assigned to the PAD, including:
 - o Gives applicant notice of the date of receipt of their application;
 - o Advises applicant of the deadlines and of the right to review;
 - o Responds to the request within 20 days, or if processing the request does not appear possible without negatively impacting the normal course of the City's activities, within an additional ten (10) days, after notifying the applicant in writing;
 - o Assists the applicant in identifying the document likely to contain the sought after information when the request is imprecise;
 - o Gives reasons for any refusal to comply with a request for access;
 - o At the request of applicant, provides assistance to help them understand the decision concerning them;

- Makes a decision in writing and sends a copy to applicant. It must be accompanied by the text of the provision on which the refusal is based, if applicable, and a notice informing of the appeal for review and indicating in particular the time limit within which it may be exercised;
- Ensures that the information subject to the request is kept for the time required to allow the applicant to exhaust the recourses provided for by law.
- Supervises the maintenance of the registers provided for in section 7 of this policy.
- Participates in assessing the risk of serious harm linked to a confidentiality incident, in particular regarding the sensitivity of the information concerned, the anticipated consequences of its use and the probability that this information will be used for malicious purposes;
- When applicable, verifies confidentiality obligations related to the communication of personal information as part of mandates or service contracts entrusted to third parties in accordance with section 6.3.2 of this policy.

15.3. The committee:

- Ensures the implementation of measures aimed at raising awareness and training members of staff and members of City management on obligations and practices regarding access to information and protection of personal information;
- Approves this framework policy on governance over the protection of personal information;
- Issues guidelines on the use of marketing IT tools involving data communication or profiling, when applicable;
- Identifies the main risks regarding the protection of personal information and suggests risk mitigation measures;
- Approves any deviation from the general principles of protection of personal information that have been established;
- Issues directives for the protection of personal information, in particular for the conservation of it by third parties outside Québec, when applicable;
- Is consulted, from the onset of a project and for the purposes of the PIA, for all projects involving the acquisition, development and redesign of information systems or electronic delivery of services involving personal information:
 - Ensures that the completion of the PIA is proportionate to the sensitivity of the information concerned, the purposes for which it is used, the quantity and distribution of the information and the medium on which it will be hosted;
 - When applicable, ensures that the project makes it possible to communicate to the person concerned the computerized personal information collected from them in a structured and commonly used technological format;
- Must be notified of any confidentiality incident involving personal information and must advise the City on the follow-up to be taken;
- Reviews processes in the event of a confidentiality incident;
- Reviews the rules for collecting and conserving personal information from surveys;

- Reviews any issue of interest relating to the protection of personal information;
- Reviews the measures related to video surveillance and ensures respect for privacy in the context of its use.

15.4. Any person who processes personal information held by the City:

- Acts with caution and integrates the principles set forth in this policy into their activities;
- Accesses only the information needed to perform their duties;
- Integrates and conserves information only in files intended for the performance of their duties;
- Stores these files so that only authorized persons have access to them;
- Protects access to personal information in their possession or to which there is an access by a password;
- Refrains from communicating personal information that they have become aware of in the performance of their duties, unless duly authorized to do so;
- Refrains from conserving, at the end of their employment or contract, personal information obtained or collected in the course of their duties, and maintains their confidentiality obligations;
- Destroys all personal information in accordance with the declassification procedure administered by the City Archivist;
- Participates in awareness and training activities on the protection of personal information intended for them;
- Reports any breach, confidentiality incident or any other situation or irregularity that could compromise in any way the security, integrity or confidentiality of personal information in accordance with the procedure established by the City.

16. Awareness activities

The City offers training and awareness activities to its employees regarding the protection of personal information.

17. Sanctions

Any person who violates this policy is liable to sanctions based on the applicable normative or disciplinary framework.

18. Updates

In order to follow the evolution of the normative framework applicable to the protection of personal information and to improve the City's personal information protection program, this policy may be updated as necessary. Please visit the City's website for the most recent version.

19. Coming into force

This policy comes into force when it is tabled at the City Council Meeting, following the approval of the Committee for Access to Information and Protection of Personal Information.