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**BARRIE PUBLIC LIBRARY  
ANTI-SPAM POLICY**

**MOTION #16-34**

**Reviewed June 23, 2016**

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**1. DEFINITIONS**

1.1 CASL or Canada's Anti-Spam Legislation refers to the following Act and Regulations:

- a. An Act to promote efficiency and adaptability of Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the Canadian Radio-television and Telecommunications Commission Act, the Competition Act, the Personal Information Protection and Electronic Documents Act and the Telecommunications Act, S.C. 2010, c.23 (the "Act")
- b. Electronic Commerce Protection Regulations (CRTC), SOR/2012-36; and
- c. Electronic Commerce Protection Regulations (Industry Canada), SOR/2013-221.

1.2 CEM (Commercial Electronic Message): an electronic message that directly or indirectly encourages participation in the Library's commercial activities and/or activities of a person other than the Library. A commercial electronic message is defined in the act as an electronic message that, having regard to the content of the message, the hyperlinks in the message to content on a website or other database, or the contact information contained in the message, it would be reasonable to conclude has as its purpose, or one of its purposes, to encourage participation in a commercial activity, including an electronic message that:

- a. Offers to purchase, sell, barter or lease a product, goods, a service, land or an interest or right in land;
- b. Offers to provide a business, investment or gaming opportunity
- c. Advertises or promotes anything referred to in paragraph (a) or (b); or
- d. Promotes a person, including the public image of a person, as being a person who does anything referred to in any of the paragraphs (a) to (c), or who intends to do so.

A request for consent to send a message described in any of the circumstances above is also considered to be a CEM.

1.3 Computer Program: data representing instructions/statements that perform a function on another computer when executed. This includes software, applications, games, and other computer code that meets the above description.

1.4 EM (Electronic Message): a message sent by electronic means to an electronic address including email, text, instant message, and via social media accounts.

1.5 Exceptions/Exemptions: exemptions to the requirements of the Act, as prescribed in CASL and outlined in subsections 6-8.

1.6 Express Consent: explicit or expressed communication by a person that they wish to receive electronic messages from the Library.

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- 1.7 Implied Consent: existence of requirement prescribed in Section 6 of policy.
- 1.8 Third Party: a Person who is not the CEO, a Director, Manager, employee or officer of the Library who sends EMs that promote, advertise, market or otherwise encourage participation in the Library's activities.

**2. PHILOSOPHY**

- 2.1 The Barrie Public Library Board requires its CEO, Directors, Managers, Officers, Employees and Volunteers as well as any other Person or Third Party who communicates on its behalf to comply with this policy.
- 2.2 The Library Board will appoint staff members who are responsible for managing the implementation of this policy including the CEO, Directors, and their designates.
- 2.3 Notwithstanding anything in this Policy, at the Library's sole and absolute discretion, the Library may rely on any one or more of the Exemptions provided by CASL. A determination as to when a situation would be subject to any one of the Exemptions shall be made by the Library on a case-by-case basis.

**3. ELECTRONIC ADDRESSES**

- 3.1 No Person or Third Party shall collect an Electronic Address for the purpose of sending CEMs to the Person who owns that Electronic Address on behalf of the Library without first having obtained the consent of that Person.
- 3.2 All the Electronic Addresses collected by or on behalf of the Library shall be entered, stored and managed by the Library in an appropriate database and in accordance with the Library's policies and procedures respecting the collection of personal information.

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**4. ELECTRONIC MESSAGES**

- 4.1 No CEM shall be sent by or on behalf of the Library unless the:
- a. The CEM solely provides factual information about the ongoing use or purchase of a product, good, or services offered under a subscription or membership, or ongoing subscription or membership information (CASL exception outlined in subsection 6(6)d).
  - b. recipient of the CEM has provided Express Consent to receive EMs from the Library
  - c. recipient of the CEM has provided Implied Consent to receive EMs from the Library.
- 4.2 All CEMs sent by or on behalf of the Library must include the Library's name, mailing address, email address; telephone number and website in addition to the Library's unsubscribe mechanism.

**5. EXPRESS CONSENT**

- 5.1 The Library shall endeavor to obtain Express Consent from a Person to whom it sends CEMs as required by CASL and that consent will be recorded in accordance with Library procedure and shall specify the date the Express Consent was given, the types of EMs the Person consented to receive and the manner in which the Consent was given.
- 5.2 All the requests for Express Consent made on behalf of the Library must include a request that the recipients consent to receive EMs from the Library, the purpose for which the consent is being sought, the Library's name, mailing address, email address, telephone number, website and a statement that the consent may be withdrawn at any time. Requests for Express Consent made in writing will not use pre-checked boxes.
- 5.3 All requests for Express Consent made orally on behalf of the Library shall disclose the name of the individual making the request and that the consent is being sought on behalf of the Library; the purpose for which the consent is being sought, the Library's mailing address; email address, telephone number and the Person must be informed that they may withdraw consent at any time. Details of the Express Consent will be noted in the Library's database, including the purpose for which consent was sought, the date consent was obtained or renewed as well as the initials of the staff member who obtained the consent.

**6. IMPLIED CONSENT**

- 6.1 The Library has Implied Consent to send CEMs to the following:
- Current and active cardholders of the Library
  - Cardholders of the Library who ceased to be cardholders in 24 months preceding the date of the sending of the EM

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- Persons who entered into a financial transaction with the Library in the 24 months preceding the date of sending the EM
- Persons who donated to the Library in the 24 months preceding the sending of the EM
- Persons who volunteered for the Library in the 24 months preceding the date of the sending of the EM.

**7. UNSUBSCRIBE MECHANISM**

- 7.1 All EMs sent by or on behalf of the Library shall include a mechanism by which the Person receiving the EMs may unsubscribe from receiving EMs from the Library that will be prominently displayed in the body of all EMs sent to the Person.
- 7.2 All requests to unsubscribe shall receive a confirmation by the staff members receiving the request as soon as practicable.

**8. COMPUTER PROGRAMS**

- 8.1 In the course of conducting Library activities, no Person or Third party shall cause a Computer Program to be installed on a Computer system without that Person first obtains the Express Consent of the owner or authorized user of the Computer System to install the Computer Program on behalf of the Library. The Person seeking the consent on behalf of the Library shall disclose to the Person from whom consent is being sought, the function and purpose of the Computer Program being installed. No Express Consent is required to install a Cookie, HTML code, Java Script and an Operating System.
- 8.2 Any Person who uses a computer system or Internet connection owned, operated and controlled by the Library, must carry out their activities in a manner compliant with CASL. Any Person who contravenes this part of the policy, shall defend, indemnify and hold harmless the Library and its CEO, Director, Managers, officers, employees, Third Party agents, volunteers and trustees, from and against any and all complaints, claims, actions or demands resulting from, and/or arising out of that Person's actions, including, but not limited to, for any and all regulatory proceedings, warrants, preservation demands, disclosure requests, compliance notices, administrative monetary penalties, fines damages, injunctive relief, class actions, legal fees, expert fees and disbursement.

**9. THIRD-PARTIES**

- 9.1 The Library requires that all Third Parties have Express Consent or Implied Consent (as prescribed at Section 5 and 6 of this Policy) to receive EMs from the Library, from the Persons to whom the EMs are sent, prior to the sending the EMs.

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- 9.2 The Library shall not be held liable for any and all EMs sent by Third Parties that are not sent in compliance with this Policy.
- 9.3 All Third Parties agree to defend, indemnify and hold harmless the Library and its directors, officers, employees, agents and trustees, from and against any and all complaints, claims, actions or demands resulting from, and/or arising out of, the Third Parties' breach of this Policy, including, but not limited to, for any and all regulatory proceedings, warrants, preservation demands, disclosure requests, compliance notices, administrative monetary penalties, fines, damages, injunctive relief, class actions, legal fees, expert fees and disbursements.
- 9.4 At its sole and absolute discretion, the Library may, from time to time, enter into agreements and/or arrangements with Third Parties that may not necessarily be in compliance with this Policy, but which ensure the Library's compliance with CASL.
- 9.5 Notwithstanding anything in this Policy, at its sole and absolute discretion, the Library may rely on one or more of the Exemptions for EMs sent by Third Parties. A determination of whether a particular EM sent by a Third Party is subject to an Exemption will be made by the Library on a case-by-case basis.

**10. TRAINING**

- 10.1 Training on this policy for Library staff will be mandatory and conducted as well as tracked by Management. New hires and volunteers will receive this training as part of their initial orientation within 90 days of joining the Library and/or becoming a volunteer for the Library.

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June 25, 2015  
June 23, 2016