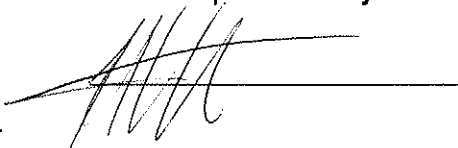

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Policy Type:	Operational	Policy Number:	12-17
Policy Title:	CASL Compliance Policy	Initial Policy Approval Date:	June 20, 2017
Signature:		Last Review/Revision Date:	
Board Chair		Year of Next Review:	2019

PURPOSE:

Canada's Anti-spam Legislation ("CASL") came into force on July 1, 2014. The Grey Highlands Public Library is committed to complying with CASL and its requirement in this policy.

PART I – DEFINITIONS:

"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.

"Computer Program" refers to 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.

Examples of computer programs include, but are not limited to:

- a) software;
- b) applications (apps);
- c) games;
- d) e-books;
- e) any upgrades or updates to an existing Computer Program; and
- f) any other computer code that meets the above description.

"Computer system" means any device that, or a group of interconnected or related devices one or more of which:

- a) contains computer programs or other data, and
- b) pursuant to computer programs,
 - i. performs logic and control, and
 - ii. may perform any other function.

Examples of a computer system include, but are not limited to: a computer; a server; a hard drive; a mobile telephone; a tablet.

"EM" or **"electronic message"** means a message sent by electronic means to an electronic address including: email, text, instant message, and via social media accounts.

For greater certainty, an EM does not include messages:

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- a) sent via posted mail;
- b) sent via fax;
- c) communicated via a two-way voice conversation;
- d) communicated via voicemail to a telephone account; and/or
- e) posted or published on a website (but not sent to an electronic address).

“Electronic address” means an address used in connection with the transmission of an electronic message to:

- a) an email account;
- b) an instant messaging account;
- c) a telephone account;
- d) a social media account; or
- e) any similar account.

“CEM” or **“commercial electronic message”** means 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.

Examples of library CEMs include, but are not limited to:

- a) EMs promoting the library, its services, or its programs (paid or unpaid)
- b) EMs seeking members or volunteers
- c) EMs inviting people to library events, when a commercial activity may take place at that event (e.g., a contest may take place, a service or product is being sold; sponsors are promoted etc.)
- d) EMs seeking donations – unless they meet the requirements for exemption for a registered charity ;
- e) E-newsletters promoting the library and/or its services

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

“Exceptions” or **“exemptions”** means exemptions to the requirements of the Act, as prescribed in CASL and outlined in subsections 6-8 of the legislation.

“Express consent” means explicit or expressed communication by a person that they wish to receive electronic messages from the Library.

“Implied consent” means existence of requirement prescribed in Section 6 of policy.

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“**Person**” means an individual, partnership, corporation, organization, association, trustee, administrator, executor, liquidator of a succession, receiver or legal representative.

“**Third Party**” means 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.

PART II – GENERAL:

- 2.1 The Grey Highlands Public Library Board requires its CEO, Trustees, Managers, Officers, Employees and Volunteers as well as any other Person or Third Party who communicates on its behalf of the Library to comply with this policy.
- 2.2 The Library CEO, Digital Services Librarian or other Staff designate are responsible for managing the implementation of this policy
- 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.

PART III – ELECTRONIC ADDRESSES:

- 3.1 No Person or Third Party shall collect an Electronic Address for the purpose of sending Electronic Messages (EM) 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 or in the library’s integrated library system (ILS) and in accordance with the Library’s policies and procedures respecting the collection of personal information.
- 3.3 All individuals who obtain and/or collect electronic addresses on behalf of the library must enter those electronic addresses into the database noted above, in accordance with the library’s policies and procedures respecting collection of personal information.

PART IV – ELECTRONIC MESSAGES (EMs):

- 4.1 No EM shall be sent by or on behalf of the Library unless the:
 - a) The EM 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 EM has provided Express Consent to receive EMs from the Library
 - c) recipient of the EM has provided Implied Consent to receive EMs from the Library.
- 4.2 All EMs sent by or on behalf of the library in the course of carrying on the library’s activities must include the following information:
 - a) the library’s name and mailing address;
 - b) the library’s email address and telephone number; and
 - c) the library’s unsubscribe mechanism, as prescribed at Part V herein.

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- 4.3 Emails sent:
- a) between employees of the library; and/or
 - b) from employees of the library to employees of other libraries EMs sent:
 - c) shall concern the activities of the library only.

PART V – EXPRESS CONSENT:

- 5.1 The library shall endeavour to obtain express consent from all persons to whom it sends CEMs.
- 5.2 Express consents provided to the library shall be recorded electronically within 10 business days of receiving the express consent, or as soon as is reasonably possible, and disposed of securely as per MFIPPA requirements and in accordance with the library's procedures and shall specify:
- a) the date and time the express consent was given;
 - b) the types of CEMs the person has consented to; and
 - c) the manner in which the express consent was given.
- 5.3 Express consent shall not be sought by or on behalf of the library by sending an electronic message to an electronic address.
- 5.4 All requests for express consent made in writing shall not include pre-checked boxes.

PART VI – IMPLIED CONSENT:

- 6.1 The library has implied consent to send EMs relating to:
- a) ILS Activities relating to Persons who are current, active cardholders of the library;
 - b) ILS Activities relating to Persons who were cardholders of the library but who ceased to be cardholders in the 24 months preceding the date of the sending of the EM;
 - c) Persons who entered into a financial transaction with the library in the 24 months preceding the date of the sending of the EM;
 - d) Persons who entered into a service transaction with the library in the 24 months preceding the sending of the EM;
 - e) Persons who provided volunteer work, a donation or gift in the 24 months preceding the date of the sending of the EM; and
 - f) Persons who made an inquiry or application in respect of any of anything mentioned in a) to e) within the 6 months immediately preceding the date of the sending of the EM.

ILS activities include but are not limited to the following: borrowing of, and placing of holds on materials, renewals, overdues, material suggestions, general enquiries, registration information, etc.

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PART VII – 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.

PART VII – 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 obtaining 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.

PART IX – 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.
- 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.

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- 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.

PART X – TRAINING:

- 9.6** 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.

Related Documents:

- CASL- An Act to promote the efficiency and adaptability of the 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)
- Electronic Commerce Protection Regulations (CRTC), SOR/2012-36.
- Electronic Commerce Protection Regulations (Industry Canada), SOR/2013-221.
- Municipal Freedom of Information and Protection of Privacy Act (R.S.O. 1990, c. M.56) as amended