

SCHEDULE "A" TO BY-LAW NO. 2018-25

CORPORATION OF THE MUNICIPALITY OF TWEED

Freedom of Information Request Policy

Purpose

To establish a consistent process in which all formal Freedom of Information Request(s) will be processed by the Municipality of Tweed and in accordance with the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA).

Policy

The Municipality of Tweed is committed to the security and privacy of records under its care and control, as well as providing access to information as required under the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA). The Municipal Clerk is designated the Head and is responsible for responding to all Freedom of Information Requests.

1. FREEDOM OF INFORMATION REQUEST

The *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA) provides an individual with the right to access information under the custody and control of an institution, including one's own personal information. There are certain limitations that may exclude records from being accessible: the records may be exempt, confidentiality provisions may apply, or the request may be considered frivolous or vexatious.

2. EXEMPTIONS

The primary focus of the MFIPPA is to facilitate access to government information, but there are limitations to that access. These limitations were enacted to protect personal information, as well as sensitive information, in the custody and control of municipal government. Under the MFIPPA, there are two types of exemptions that must be considered when assessing whether information is to be disclosed:

- a) Mandatory exemptions – requiring the institution to refuse disclosure of the record. Such records include:
 - Information pertaining to intergovernmental relations; if the information was received in confidence;
 - Third party information that reveals a trade secret or scientific, technical, commercial, financial or labour relations information if supplied in confidence, and where disclosure could prejudice the interests of a third party;
 - Personal information about individuals other than the requestor.
- b) Discretionary exemptions – requiring an institution to apply discretion and good judgement when determining whether or not to disclose the record. Such records include:

- Draft by-laws, records of closed meetings where such are authorized by statute;
- Advice or recommendations within organization;
- Law enforcement records;
- Information which could prejudice the financial or other specified interests of the organization;
- Solicitor-client privileged information;
- Information which could endanger the health and safety of an individual;
- Information already available to the public or soon to be published.

Although the above exemptions provide direction as to what must or may be considered when assessing whether or not to disclose, there are times when the above exemptions do not apply. The decision will require all members of Council to consider the above exemptions.

Certain exemptions (above) do not apply:

- a) If a compelling public interest outweighs the purpose of the exemption; or
- b) If there is a grave environmental, health or safety hazard, regardless of whether or not a formal request for information has been made.

3. REQUESTS

Every individual has a right of access to a record that is in the custody and control of the Municipality of Tweed, unless it falls within one of the exemptions. Requests for Freedom of Information should be made to the Municipal Clerk's Office by completing a prescribed Freedom of Information Request Form to be delivered to the Municipal Clerk.

4. ACCESS TO ONE'S OWN PERSONAL INFORMATION

MFIPPA provides that individuals have the right to access and correct their own personal information if they believe there is an error or omission. Once access has been granted to their personal information, an individual has the right to:

- Request a correction of their personal information;
- Require that a statement of disagreement be attached to the information reflecting any correction that was requested but not made;
- Require that notification be sent to any person or body to whom the personal information has been disclosed (within the year before) advising them of the correction or statement of disagreement.

Access to one's own personal information shall be at the discretion of the Department Manager/Supervisor (or delegate). Certain exemptions affecting access may be applied pursuant to Section 38 of the MFIPPA.

5. FEES

The charging of fees is authorized by s.45(1), of the MFIPPA. Any individual who makes a request under Freedom of Information; there will be a \$5.00 application fee required from the Requestor. The Requestor may be required to pay for the fees for:

- a) Manually searching for a record;
- b) Preparing a record for disclosure;
- c) Costs incurred in locating; retrieving, processing and copying a record;
- d) Shipping costs; and
- e) Other costs incurred in responding to a request, as set by the regulation – Section 6 of R.R.O. 1990, Regulation 823.

6. FEES SCHEDULE

List of Current Fee Amounts Based on MFIPPA and Regulations: R.R.O. 1990. Regulation 823, s6.

Initial Request Fee:	\$5.00 (FOI Request)
Record preparation and search time:	\$7.50 for each 15 minutes
Photocopies:	\$0.20 for each page
Preparing a record for disclosure, including serving a part of the record:	\$7.50 for each 15 minutes
CDs with records:	\$10.00 per disc
Other fees charged (e.g courier costs):	As invoiced
Fees estimated over \$100.00:	50% deposit

7. FEE ESTIMATES, DEPOSITS, AND PAYMENTS

Requests for records that, in the opinion of the specific Department Manager/Supervisor that requires substantial research and staff time and/or photocopying, shall require an estimate of costs to be provided to the requestor prior to any work commencing on the collection of records. No records shall be provided until the required fee has been paid.

Where the total fee is estimated to exceed \$100.00, an estimate must be provided to the requestor before staff begins to process a request. The requestor must agree to pay the estimated cost before staff continues to process the request by signing the fee estimate request form.

The payment of a deposit equal to 50% of the estimated cost may be required before proceeding. If the actual fee is less than the deposit, the balance must be refunded.

If it becomes clear during the processing that the actual cost is likely to exceed the original estimate substantially, a revised estimate must be provided to the requestor.

The full payment of all fees will be required before providing the requested information.

8. FEE WAIVERS

Some or all fees may be waived by a Department, in the following circumstances:

- a) The total fee is less than \$5.00;
- b) It is in the general public interest to provide the information;
- c) It is in the Municipality of Tweed's interest to provide the information;
- d) A waiver is requested because payment could result in a demonstrable financial hardship; or

- e) If the record for disclosure contains the Requestors' personal information a fee cannot be charged.

9. ROUTINE DISCLOSURE

There are a number of records and types of information which are available to the public through routine disclosure. This means that a formal review of information through an FOI Request (Freedom of Information) is not necessarily required in order to obtain or view municipal records or documentation. Accessing Municipality of Tweed information and applicable records will, whenever possible, be made available to the public on the Municipality of Tweed's website, orally, or through public inspection at each respective municipal department.

The following list outlines possible records and types of information which are available through routine disclosure. The determination of what records should be disclosed needs to be made by the Municipality and where the request originated after reviewing the record type, MFIPPA exemptions, information content, current practices, and the nature of the request, including, but not limited to:

- Information related to Municipality owned Surplus Land;
- Municipality of Tweed policies;
- demographic and statistical information;
- By-laws;
- Council, Committee, Board Meetings open to the public, with the Agendas and minutes;
- staff reports;
- resolutions;
- general community information (i.e. licensing, permits, waste disposal information);
- annual (approved) budgets;
- audited financial statements;
- summary of total tender results;
- tax certificates;
- Committee of Adjustment Notices and Decisions;
- planning related documents and development records (as per Planning Act);
- Subdivision/Site Plan Agreement Information;
- construction information;
- building services reports or compiled statistics;
- recreational programming and facility rental information;
- information pertaining to tourism events, special events and activities;
- Fire Incident Reports;
- official plans and amendments;
- zoning applications and notices decisions, minutes, staff reports;
- tax rolls and records;
- elections candidate Information/candidate financial reports;
- Council expenses, remuneration; and
- goals and objectives and strategic plan, of the Municipality of Tweed;
- Council approved Master Plans (i.e. Transportation, Parks, Waterfront, etc).

Requests that meet the requirements of this section may be released by all Municipal Employees; however prior to the disclosure of any records, Municipal Staff should consult with their Department

Manager/Supervisor and where uncertain about any disclosure requests should contact the Municipal Clerk for verification.

Any requests for viewing of building, planning or engineered drawings should be reviewed by the Department Manager/Supervisor, or in consultation with the Municipal Clerk, prior to the disclosure, due to copyright protection laws.

- Any specific requests for requesting tangible copies of any building, planning or engineered drawings shall be done through the formal FOI process and followed under s.10 of the Act as third-party information.

10. PERSONAL INFORMATION

To protect individual privacy, *the Municipal Freedom of Information and Protections of Privacy Act* places restrictions on the collection, use, disclosure, retention and disposal of personal information. The sharing of personal information both within and outside of the Municipality of Tweed is limited by the Act. These privacy protection standards are always in effect, and all Municipality of Tweed Staff are individually responsible for meeting all privacy requirements about an identifiable individual as set out in s.2 of the MFIPPA:

- a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual;
- b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;
- c) any identifying number, symbol or other particular assigned to the individual;
- d) the address, telephone number, fingerprints or blood type of the individual;
- e) the personal opinions or views of the individual except if they relate to another individual;
- f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence;
- g) the views or opinions of another individual about the individual; and
- h) the individual's name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual.

11. FREEDOM OF INFORMATION COMMITTEE

A Freedom of Information Committee composed of the Mayor, Deputy Mayor and the Councillor who received the greatest number of votes at the last municipal election are designated as members of the Freedom of Information Committee for the Corporation for the purposes of the *Municipal Freedom of Information and Protection of Privacy Act*.

The FOI Committee shall meet with the Municipal Clerk and the respective Municipal Staff to determine whether or not and how information will be disclosed through the formal Freedom of Information Request Process of the Municipality of Tweed.

Following a decision of the FOI Committee, the Municipal Clerk shall prepare a formal letter of response summarizing the decision, to be sent to the Requestor explaining that they have the right to appeal the decision of the Committee to the Office of the Information and Privacy Commissioner of Ontario.

Definitions:

“MFIPPA” shall mean the *Municipal Freedom of Information and Protection of Privacy Act* (the Act).

Scope

This policy shall apply to all Municipal Employees of the Municipality of Tweed.

Administration

The CAO/Clerk shall administer the terms of this policy and shall establish related operating procedures as required.