

**THE CORPORATION OF THE TOWNSHIP OF WOLLASTON**

**BY-LAW NO. 42 - 2020**

BEING A BY-LAW TO APPROVE THE FREEDOM OF INFORMATION POLICY

WHEREAS Section 8 (1) of the *Municipal Act, 2001*, provides the powers of a municipality under this or any Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS Council of The Corporation of the Township of Wollaston deems it appropriate to adopt a Freedom of Information Policy;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF WOLLASTON HEREBY ENACTS AS FOLLOWS:

1. The Freedom of Information Policy, as attached hereto, shall form part of this By-law and is hereby approved for use within the municipality;
2. This By-law repeals all previous By-law and/or Motions of Council pertaining to the same.
3. This By-law shall become effective upon the date of passing thereof.
4. Where any By-law passed prior to this, conflicts with this By-law, the terms of this By-law shall prevail.

PASSED this 13<sup>th</sup> day of July 2020.

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**MAYOR: BARBARA SHAW**

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**CLERK: BERNICE CROCKER**

# The Corporation of the Township of Wollaston

## Freedom of Information Policy

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### **POLICY STATEMENT**

The Corporation of the Township of Wollaston 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)*. Under the MFIPPA the Municipal Clerk is responsible for responding to all Freedom of Information Requests.

### **PURPOSE**

To establish a consistent process in which all formal Freedom of Information request(s) will be processed by The Corporation of the Township of Wollaston and in accordance with the *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)*.

### **SCOPE**

This policy shall apply to all Municipal Employees of Corporation of the Township of Wollaston.

### **RESPONSIBILITIES**

The Municipal Clerk is required to implement and administer the terms of this policy and shall establish related operating procedures as required.

### **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.

### **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:

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.

Discretionary exemptions-requiring an institution to apply discretion and good judgment 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.

Certain exemptions (above) do not apply:

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

## **REQUESTS**

Every individual has a right of access to a record that is in the custody and control of The Corporation of the Township of Wollaston, 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.

## **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 Municipal Clerk (or delegate). Certain exemptions affecting access may be applied pursuant to Section 38 of the MFIPPA.

## **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 \$10.00 application fee required from the Requester. The Requester may be required to pay for the fees for:

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

## **FEE SCHEDULE**

List of Current Fee Amounts Based on MFIPPA and Regulations: R.R.O. 1990. Regulation 823, s6 and the Wollaston Township General Office Fees, By-Law 71-07.

Initial Request Fee: \$5.00 (FOI Request)

Record preparation and search time: \$7.50 for each 15 minutes

Photocopies: \$0.25 for each page

Preparing a record for disclosure, including serving a part of the record: \$7.50 for each 15 minutes

Other fees charged (e.g. courier costs): As Invoiced

Fees estimated over \$100.00: As invoiced 50% deposit

## **FEE ESTIMATES, DEPOSITS, AND PAYMENTS**

Requests for records that, in the opinion of the specific Department Head that requires substantial research and staff time and/or photocopying, shall require an estimate of costs to be provided to the requester 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 requester before staff begins to process a request. The requester 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 requester.

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

## **FEE WAIVERS**

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

- The total fee is less than \$10.00;
- It is in the general public interest to provide the information;
- It is in The Corporation of Wollaston Township's interest to provide the information;
- A waiver is requested because payment could result in a demonstrable financial hardship; or
- If the record for disclosure contains the Requesters' personal information a fee cannot be charged.

## **ROUTINE DISCLOSURE**

The Corporation of the Township of Wollaston has practices and guidelines that have been developed to encourage the Routine Disclosure of information to provide easier public access to information. All requests for Routine Disclosure shall apply to the Routine Disclosure Policy for The Corporation of the Township of Wollaston and a list of what can be routinely closed on a regular basis is listed in the Policy.

Routine disclosure occurs when:

- A request for a general record can be granted routinely outside of the Formal Access process prescribed by *the "MFIPPA"*, or
- Information or records are periodically released (without any request) pursuant to a specific strategy for release of information

by The Corporation of the Township of Wollaston.

### **FREEDOM OF INFORMATION HEAD**

The Municipal Clerk is designated as head of the Corporation for the purposes of the *Municipal Freedom of Information and Protection of Privacy Act*.

The Municipal Clerk and the respective Municipal Staff, as appropriate, will meet to determine whether or not and how information will be disclosed through the formal Freedom of Information Request Process of The Corporation of the Township of Wollaston.

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)