

BYLAW 376-99
Freedom of Information and Protection of Privacy Bylaw

WHEREAS, in accordance with the Municipal Government Act, S.A. 1994, Chapter M-26.1, as amended and the Freedom of Information and Privacy Act, S.A. 1994, F-18.5, an Applicant has the right to access their own personal information and other municipal records, unless there is a reason why the information should not be disclosed; and

WHEREAS, in accordance with the said Act, upon request of any person, information in the possession of the municipality must be provided within a reasonable time and on payment of a reasonable fee established by bylaw; and

WHEREAS, in accordance with the said Act, a written appeal may be made to the Village Council;

NOW THEREFORE, the Council of the Village of Stirling in the Province of Alberta, in council duly assembled hereby enacts as follows:

1. Bylaw Title

- A. This Bylaw shall be cited as the "Freedom of Information and Protection of Privacy Bylaw"

2. Purpose of Bylaw

- A. The purpose of the bylaw is to facilitate access to information in the possession of the Village and to ensure personal information is protected from unauthorized collection, use or disclosure.
- B. The Village acknowledges that:
- i) information has value and can also be marketable asset managed by the Village; and
 - ii) it is the responsibility of the Village, to consider provision of information routinely requested via Active Dissemination or Routine Disclosure
 - iii) it is the responsibility of the Village, through its employees, to respond to persons requesting information as quickly and conveniently as possible, unless there are clear and reasonable grounds to withhold the information based on the Record classification.

3. Definitions

- A. **Active Dissemination:** routine disclosure of information by the municipality in bulk quantities. Records the municipality provides for the public on a regular basis.
- B. **Appeal:** the process available to an Applicant when information requested is not provided or refused or rejected. See the section on Appeals.
- C. **Applicant:** the individual making the request for information in accordance with this bylaw
- D. **Chief Administrative Officer:** the Village of Stirling Manager, as appointed pursuant to the Municipal Government Act.
- E. **Village:** the Village of Stirling.
- F. **Council:** the Council of Stirling.
- G. **Error:** mistake or wrong information, or information not reflecting the truth.
- H. **Exempt Information:** as defined in PART VII of this Bylaw.
- I. **Formal Requests:** see "Requests".
- J. **Freedom of Information and Privacy Coordinator:** is the Village Manager for the purpose of Freedom of Information and Protection of Privacy Act (pursuant to Section 89). The Village Manager may delegate the duties for the Freedom of Information and Privacy Act.
- K. **Informal Request:** see "Requests".
- L. **MASH Sector:** the sectors of public bodies under the Freedom of Information and Privacy of Protection Act, which will be affected by the Act before the year 2000.
- M. **Omission:** information in a record which is incomplete or missing or has been overlooked.

- N. **Record:** the information recorded in any form, including books, documents, maps, drawings, photographs, letters, vouchers and papers, and any other information that is written, photographed, recorded or stored in any manner, but does not include software or any other mechanism that produces records, except as this term may otherwise be defined in the Freedom of Information and Protection of Privacy Act from time to time.
- O. **Refusal:** an information request which is rejected for one of the reasons permitted for rejection in this bylaw as determined by the Freedom of Information and Privacy Coordinator.
- P. **Rejection:** an information request which is rejected for one of the reasons permitted for rejection in this bylaw as determined by the Freedom of Information and Privacy Coordinator.
- Q. **Requests:** Formal requests relate to information not routinely provided. These types of requests require the completion of a "Request for Access of Information" form, prior to release of the information.
- R. **Informal Requests:** are requests for information, which the municipality routinely discloses or provides via Active Dissemination. Informal requests do not require the completion of a "Request for Access to Information" form.
- S. **Routine Disclosure:** release of specific information on a regular basis, without the requirement of completion of a "Request for Access to Information" form.
- T. **Third Party Information Requests:** a request for information relating to a person, group, or persons or an organization other than the applicants or the Village. This information may directly impact, involve, or belong to the originating party, and cannot be released without the originating party's permission.

4. Right to Information

On request pursuant to "Requests" of this bylaw, provided the Applicant pays the applicable fees as set out in the Fees and Charges Schedule, each applicant has a right to:

- A) access a Record that is in the possession of the Village;
- B) view a Record in the possession of the Village;
- C) request copies of a Record that is in the possession of the Village;
- D) request corrections to personal information maintained by the Village; and
- E) received a copy of a Record maintained by the Village in a format that is reasonably available, unless the Record is Exempt information pursuant to this bylaw.

5. Requests

- A There are various types of requests regarding information and depending on the request, there are various forms that may be required.
 - i) If the requested information may be obtained by Information Request any individual may request information by telephoning, writing or by visiting (in person), the department, office, or organization where the Record is kept, and sufficient detail must be provided in the description to identify the Record required.
 - ii) If the requested information must be obtained by Formal Request or if the Village must determine if the requested information may be obtained by Formal Request or Informal Request or to enable the Village to provide an estimate of the fees which will be required to obtain the Record, an Applicant will be required to complete a "Request for Access to Information" form.
 - iii) Any applicant has the right to request information relating to a person, group or organization other than the Applicant or the Village, by completing a "Request for Third Party Information" form.
 - iv) Any applicant who believes there is an Error or omission in their own personal information held by the municipality, may request a change to the personal information by completing a "Request for Correction of Personal Information" form as prescribed.
- B. All formal requests to access Records held by the municipality, will be identified and tracked by the Villages Freedom of Information and Privacy Coordinator, and will be responded to within 30 days of receipt of the request.
- C Any questions or concerns regarding the release or access to information held by the Village or, an agent acting on behalf of the Village, or completion of a request form, may be directed to the Village's Freedom of Information and Privacy Coordinator.

6. Responses to requests

- A. The Freedom of Information and Privacy Coordinator shall appoint one or more Village employees in each department who shall determine if the request is an informal or formal request as these terms are defined in this bylaw. If the appointed employee determines that the request for information is a formal request, then the appointed employee shall require the applicant to complete a Request to Information Form as prescribed.
- B. Provided the record requested is not for exempt information, if an employee is able to access the Record, within 30 days the applicant will be:
- i) provided with a written estimate of any fees that will be charged;
 - ii) allowed to view the record; and
 - iii) if the record is reasonably capable of being copied, provided with a copy of the record requested, subject to payment of the applicable fee.
- C. If the requested record cannot reasonably be accessed within 30 days of the date of the receipt of the request, the applicant must be told where, when and how a copy of the record will be provided.
- D. Pursuant to section 13(1) of the Freedom of Information and Protection of Privacy Act, the head of a public body may extend the time for responding to a request up to 30 days or, with the Freedom of Information and Protection of Privacy Commissioner's permission for a longer period.
- E. If the applicant is refused or rejected, the Village shall provide the Applicant:
- i) written notification as to the reason for the refusal or rejection and the provision on which the refusal is based.
 - ii) An explanation of the appeal process.
 - iii) The name, title, business, address and business telephone number of an officer or employee of the Village who can answer any questions the applicant may have about the refusal.

Notwithstanding the foregoing, the Freedom of Information and Privacy Coordinator may refuse to confirm or deny the existence of a record containing information described in Section 17 or Section 19 of the Freedom of Information and Protection of Privacy Act or a record containing personal information about a third party if disclosing the existence of the information would be an unreasonable invasion of the third party's personal privacy.

- F. The Village must respond in writing within 30 days of receiving a "Request for Correction of Personal Information" form stating:
- i) a correction has been made; or
 - ii) an annotation of linkage has been attached to the information linking the information with the correction that was requested and not made.
- G. Applications may be:
- i) refused on the basis that:
 - the request did not meet the technical requirements as set out in this bylaw
 - ii) rejected as:
 - the completed form or request was illegible;
 - the information request is exempt information;
 - the request was considered vexatious or frivolous; or
 - for any other reason provided for in the Freedom of Information and Protection of Privacy Act.
- H. At any time, if information requested is scheduled for destruction, a copy of the written request, initialed by the Chief Administrative Officer, must be given to the records Management Coordinator, who on receipt of the written request must delay the destruction of that information, until such time as:
- i) the request has been granted;
 - ii) the time for appeal under this bylaw has expired; or
 - iii) any appeal or review permitted pursuant to this bylaw or the Freedom of Information and Protection of Privacy Act is refused or rejected.

7. Exempt Information

- A. Exempt Information is information:
- i) which may:
 - be an unreasonable invasion of personal privacy;
 - cause financial harm;
 - threaten anyone else's safety of mental or physical health;
 - harm law enforcement efforts.
 - ii) which is otherwise information which the Freedom of Information and Privacy Coordinator may refuse or be required to refuse to disclose pursuant to the provisions of the Freedom of Information and Protection of Privacy Act.
- B. Advice or information given and deliberations or directions made at a private meeting or a private meeting of Council, or a private meeting of Council Committee, draft reports, draft resolutions or draft bylaws or other legal instruments unless they have been considered at a Council or Committee meeting open to the public or unless the record has been in existence for 15 years or more, are exempt information.
- C. Information about assessments and taxes is exempt information, unless disclosure of such information is requested or permitted under the Freedom of Information and Protection of Privacy Act or any other statute.

8. Appeals

- A. An Applicant may appeal to Council for a refusal to provide a record or a rejection of an application by serving to the Village clerk a written notice in the form prescribed.
- i) within 15 days of receiving a written notice of delay, Refusal or Rejection of the application; or
 - ii) within 60 days of requesting the Record if no written notice of delay, refusal or rejection is received.
- B. Grounds for an appeal are:
- i) that the released record was not complete; or
 - ii) that the record was withheld without reason being stated; or
 - ii) that the reason for withholding the record, if not written, was insufficient or wrong.
- C. Council may only consider an appeal if:
- i) the person to whom the information relates and the persons who would be affected by release of the information have been notified; or
 - ii) all possible attempts have been made to notify the applicants of the appeal.
- D. Appeals filed that meet the requirements of this section, will be heard at a regularly scheduled meeting of Council within 60 days after receipt by the Village.
- E. Any applicant filing an appeal will be notified of the hearing, and may be asked to make a presentation or to respond to questions from Council.
- F. If an individual who received notice of the hearing cannot attend, they may authorize, in writing someone else as agent to attend on their behalf.
- G. Council may proceed with the hearing in absence of the Applicant or any other person who has received notice of the hearing if Council determines that all reasonable attempts have been made by the Village to notify the applicant or any other individual of the hearing.

9. Decisions of Council

- A. At the appeal hearing,, Council may:
- i) hear the applicant and any other person that Council determines has relevant information for the hearing; and
 - ii) determine that all or part of the record requested shall be made available, and in what format; and
 - iii) permit the designated officer a further 30 days to make the Record available; or
 - iv) determine that the Record shall not be disclosed; or
 - v) make any other decision that it considers reasonable and justifiable in the circumstances, including refund of appeal fees.

- B. Subject to the right to review by the Commissioner as set out in the Freedom of Information and Protection of Privacy Act, Council's decision is final, and shall be written in the official minutes of the meeting. The decision shall be available from the Office of the Village Clerk within 30 working days after the hearing is completed.

10. Fees:

- A. Administrative fees as established in the "Fees and Charges Schedule", shall be charged before an applicant is entitled to receive the requested information.

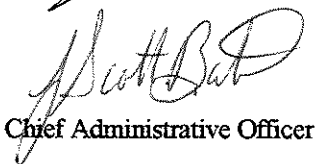
THIS bylaw shall come into force and effect upon the date of the passing if the third and final reading and signing thereof.

READ a first time in Council this 20 day of September, 1999

READ a second time in Council this 20 day of September, 1999

READ a third time in Council and finally passed this 27 day of October, 1999

Mayor



Chief Administrative Officer

Fees and Charges Schedule

SCHEDULE B "Informal Requests"

1. Village shall charge the following fees:
 - A. a photocopy charge of \$0.25 per page of information (\$0.50 per double-sided page) to a maximum photocopying charge of \$150.00 (except where information is considered to be personal information and is under \$10.00 in copy charges) information will be copied double-sided whenever possible.
 - B. for tax information:
 - i) \$30.00 for a tax certificate
 - C. for copies of information in other formats:
 - i) \$1.00 per page for computer printer sheets, unless otherwise stipulated with this bylaw;
 - ii) \$10.00 per computer compact diskette;
 - iii) maps as per Village's policy
 - D. \$25.00 per hour to extract data from an electronic data base
 - E. actual costs incurred by the Village to create information. Actual costs shall include staff time and material used.
2. Information in media other than that listed will be available at a reasonable cost based on actual costs incurred by the Village.

Schedule A "Formal Requests"

1. There shall be no charge for the receipt of personal information, except where the materials exceed \$10.00. Then the fee charged shall be for the cost of providing the materials in accordance with Schedule B, attached hereto.
2. The Village shall charge the following fees:
 - A. a minimum of \$25.00 for each formal request received pursuant to the Access to Information Bylaw. This cost includes a maximum of 2 hours employee labour and \$10.00 for materials. Any costs in excess of these stipulated, will be calculated and charged prior to the release of the information at a rate of \$25.00/hr. for labour and as listed for materials.
 - B. \$25.00 for an appeal filed pursuant to the Access to Information Bylaw of the Village.
3. Actual costs for any costs incurred by the Village to access or produce third party information.