



POLICY

TITLE: Freedom of Information and Routine Disclosure Policy
NUMBER: ADM-010
CATEGORY: Administration
DATE: July 15th, 2020
REFERENCES: The Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)
By-Law 2020-38

PURPOSE

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

The Corporation of the Municipality of Centre Hastings is committed to ensuring the public is provided access to government records and information efficiently and effectively, and in accordance with the Municipalities commitment to accountability and transparency, with the overarching principles of the *Municipal Act 2001*, and the *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)*.

The MFIPPA provides for a process for obtaining access to municipal records through filing a written request through the Municipal Clerk. However, the MFIPPA provides that a Municipality may establish a Routine Disclosure Policy, when there is nothing in the Act to prevent giving access to information contained within municipal records.

The Corporation of the Municipality of Centre Hastings endorses practices that will facilitate open access to public records, while at the same time protecting the privacy of personal information which is within the custody of The Corporation of the Municipality of Centre Hastings in accordance with the MFIPPA.

POLICY

The Corporation of the Municipality of Centre Hastings 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.

SCOPE

This policy shall apply to all Municipal Employees of The Corporation of the Municipality of Centre Hastings.

FREEDOM OF INFORMATION HEAD

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

The CAO/Clerk shall meet with the respective Municipal Staff to determine both how and whether or not information will be disclosed through the formal Freedom of Information Request Process of The Corporation of the Municipality of Centre Hastings or if the request is considered Routine Disclosure.

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.

Following a decision of the CAO/Clerk a formal letter of response summarizing the decision will be sent to the Requester explaining that they have the right to appeal the decision of the Committee to the Office of the Information and Privacy Commissioner of Ontario.

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 requester.

Discretionary exemptions-requiring an institution to apply discretion and good judgment when determining whether 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 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 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 Municipality of Centre Hastings, unless it falls within one of the exemptions. Requests for Freedom of Information should be made to the Municipal Office by completing a prescribed Freedom of Information Request Form to be delivered to the Municipal CAO/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 Head of MFIPPA CAO/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, s.6 and the Municipality of Centre Hastings's Fee Bylaw 2020-21.

- Initial Request Fee:\$10.00 (FOI Request)
- Record preparation and search time: \$7.50 for each 15 minutes
- Photocopies: \$0.30 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 Manager 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 a Department, 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 the Municipality of Centre Hastings 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 Municipality of Centre Hastings has practices and guidelines that have been developed to encourage the Routine Disclosure of information to provide easier public access to information.

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 Municipality of Centre Hastings.

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 the Corporation of the Municipality of Centre Hastings information and applicable records will, whenever possible, be made available to the public on The Corporation of the Municipality of Centre Hastings 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 Municipally owned Surplus Land;
- Municipality of Centre Hastings 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 Corporation of the Municipality of Centre Hastings;
- 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 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, or in consultation with the CAO/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.

RECORDS IN ACCESSIBLE FORMAT

Records actively routinely disclosed are subject to the requirements of the *Accessibility for Ontarians with Disabilities Act* and its regulations and will be provided in accessible formats as requested in accordance with the requirements set out by the Act, and the Municipality of Centre Hastings Accessibility Customer Service Standard Policy ACC-001.

PERSONAL INFORMATION

To protect individual privacy, *the Municipal Freedom of Information and Protection to Privacy Act* (MFIPPA) places restrictions on the collection, use, disclosure, retention and disposal of personal information. These privacy protection standards are always in effect, and all The Corporation of the Municipality of Centre Hastings Staff are individually responsible for meeting all privacy requirements about an identifiable individual as set out in s.2 of the Act and in accordance with The Corporation of the Municipality of Centre Hastings Privacy Policy ADM-011.

The Corporation of the Municipality of Centre Hastings will **NOT** disclose personal information through routine disclosure.

All requests for any record that may contain personal information must be submitted formally under the MFIPPA process. This can be done by submitting a formal FOI Access Request with the applicable forms and fees to the CAO/Clerk.

NOT REQUIRED TO CREATE RECORDS

The Corporation of the Municipality of Centre Hastings is not required to provide information discussed but not recorded. In response to an informal request, the Municipality is not required to create records which do not otherwise exist.

The Corporation of the Municipality of Centre Hastings is not required to restore records that have been properly disposed of under the authority given and provided by the Record Retention By-law 2017-64.

DENIED ROUTINE DISCLOSURE REQUEST

The Corporation of the Municipality of Centre Hastings has the authority to deny a request for routine disclosure, as well as redact certain portions of any documents that are being disclosed as dictated by the Act.

If a request for routine disclosure is denied, then a request under The Corporation of the Municipality of Centre Hastings Formal Freedom of Information process and Policy can be made to the CAO/Clerk.

FEES- CHARGEABLE PRODUCTS AND SERVICES

The following provisions shall apply to this policy for the recovery of all reasonable direct and indirect costs associated with responding to requests for information that require staff to take some specific action on the requesters behalf and/or prepare a response.

The charging of fees is authorized by Section 45(1), of the Act. Any individual making a request for routine disclosure services, there will be no initial charge applied for the application from the Requester. However, the Requester may be required to pay for the fees for the following:

- Manually searching for a record;
- Preparing a record for disclosure;
- Computer. and other 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 ESTIMATES, DEPOSITS, AND PAYMENTS

Requests for records that, in the opinion of the specific Department Manager require 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 a Department, in the following circumstances:

- the total fee is less than \$5.00;
- it is in the general public interest to provide the information;
- it is in The Corporation of the Municipality of Centre Hastings'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.