

# Village of Debden

Policy Title <b>Freedom of Information and Access to Information Policy</b>		Adopted By <b>Council</b>	Policy Number <b>3/2020</b>	
Jurisdiction <b>Village of Debden</b>	Attachments Appendix A- Informal Access Request Guidelines Appendix B-Informal Access Request Form		Effective Date <b>August 11, 2020</b> Amended:	Page  11
Reviewed By <b>Council</b>				

## Purpose

The Village of Debden recognizes the right of access by the public to information in the possession or under the control of the Municipality and is committed to fulfilling its obligations under *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP) and *The Local Authority Freedom of Information and Protection of Privacy Act Regulations* (LA FOIP Regs).

The purpose of this policy is to define and establish legislative and regulatory compliant procedures guidelines and fee structure around providing access to information as required to carry out the Municipality's statutory obligations pursuant to LA FOIP and the Municipality's legitimate business and public interest mandates, including the principles of Open Government: transparency, accountability, accessibility and participation.

## Scope

Council, all employees, and contractors who collect, use, access and disclose general, personal, sensitive and confidential information on behalf of the Village.

All individuals who provide personally identifiable information to the Village for the purpose of conducting Village business, activities or programs.

The public and any individual who wish to access record and information from the Village of Debden.

## Definitions

**Access to Information Request** – The formal process by which an individual may request access to the Municipality's information under the provisions of LA FOIP. The term freedom of information request (FOI) is also used to describe an access to information request.

**Administrator** – the administrator of the Municipality appointed pursuant to Section 110 of *The Municipalities Act*.

**Applicant** – any individual who requests access to a record under LA FOIP.

**Contractor** – an individual or company retained under a contract to perform services for the Municipality.

**Control** – is where the Municipality has the authority to manage the record including restricting, regulating and administering its use, disclosure or disposition.

**Duty to Assist** – the Municipality's obligation to provide assistance to an applicant including responding to a request for access openly, accurately and completely.

**Employee** – an individual employed by the Municipality, including an individual retained under a contract to perform services for the Municipality.

**Exemption** – a mandatory or discretionary provision under LA FOIP that authorizes the Municipality to refuse to give access to information contained in a record, or, in some cases, to refuse to acknowledge the existence of a record in response to a request.

**Formal Request** – a request for access to information, made in writing or presented on the prescribed Access to Information Request Form that states the applicant wishes to make application under LA FOIP.

**Head** – the Mayor of the Municipality.

**Informal Request** – a request for information, which is general in nature, can be easily accessed in a minimal amount of time and can typically be handled by the department responsible for the information.

**Information** – what a record contains. It is also a term used to refer to the content of an electronic database or application. Regardless of the form, all recorded information in the possession or under the control of the Municipality is a record.

**LA FOIP** – *The Local Authority Freedom of Information and Protection of Privacy Act.*

**Personal Information** – means information about an identifiable individual of a personal nature which may include but is not limited to: information about an individual's race; religion; family status; age; birthdate; place of origin; employment or criminal history; financial information; health services number; driver's license number; social insurance number; home address, email address or telephone number; physical or mental condition of an individual; an individual's personal views or opinions except where they are about another individual.

**Possession** – physical possession plus a measure of control of the record.

**Privacy** – is the right to keep certain information private; freedom from unauthorized access to, use, or disclosure of one's personal information.

**Record** – means a record of information in any form and includes information that is written, photographed, recorded, digitized or stored in any manner, but does not include computer programs or other mechanisms that produce records.

## **Policy Statement**

LA FOIP and (*The Cities Act, The Municipalities Act or The Northern Municipalities Act, 2010*) determine the Municipality's obligations to provide access to information in the Municipality's possession or under its control. The Village is committed to openness and transparency by respecting both the spirit and requirements of the right to access by the public to their statutory

right to inspect and obtain copies of the Village's records and information in accordance with LAFOIP's regulations.

The Village is committed to protecting the privacy and confidentiality of personally identifiable information collected, accessed, used and disclosed by the Village.

## **Responsibility**

The Administrator is designated by the Mayor, as the Head of the Local Authority and is accountable to ensure that the delegation of roles and responsibilities in relation to the Act are legislatively and regulatory compliant.

The Administrator is responsible for the Village's compliance; protection of all personal information held by the Village or transferred to a third party for processing; and the development and implementation of policies, procedures, and best practices.

Council, all employees and any third parties that are contracted by the Village are responsible for the collection, access, use, disclosure, and protection of personal, confidential and sensitive information in accordance with LAFOIP and must recognize when a request for access to information is Formal Access Request and must be forwarded immediately and in confidence to the Administrator.

The Municipality has a duty to provide assistance to an applicant; to provide an explanation of any term, code or abbreviation used in the information, or to refer an applicant to a person who is able to supply an explanation if the Municipality is unable to do so.

Applicants will be required to complete the following:

- a) A Formal or Informal Access to information Request and submit the applicable Application fee.
- b) Provide Consent either directly as express consent or indirectly as implied consent that is applicable to their specific application for services.

Any individual who has personal information in the custody and control of the Village are responsible to notify the Village of any updates, corrections, or revisions of their personal information.

## **Open Government**

The Village promotes a governing culture of open Government that recognizes the public has the right to access public documents. Continued active information on the Village's website and Social Media will promote the Village's open government initiatives and the citizens will recognize their right to the access and the protection of their personal information.

## **Identifying Purpose**

Purposes for the access, use, collection and disclosure of personally identifiable information must be identified and outlined in relation to their specific business activities, services, and functions. An applicant must inform before the time of collection why the information is required and how it will be utilized.

## **Limiting Collection**

Departments shall not collect personal information unless the information is collected for a specific purpose that relates to an existing or proposed program or activity of the Village.

## **Limiting Use, Disclosure, and Retention**

Personally identifiable information shall only be used or disclosed for the purpose for which it was collected, unless the individuals' consents, or the use or disclosure is authorized by the Act. The

Village shall only keep personal information for only as long as necessary to satisfy the purpose for which it was collected.

Before personally identifiable information is utilized for any other purpose than identified at the time of collection, the Village must obtain written or express consent from the individual before their personal information can be utilized for any other purpose.

a) Positive/Opt-in or express consent

This form of consent, referred to as “express consent”, occurs when the Village presents an opportunity for an Applicant to agree or to “opt in” to the access, use, collection, or disclosure of their personally identifiable information. Express consent is unequivocal and does not require any inference on the part of the Village when seeking consent.

b) Implied Consent

Implied consent arises where consent may reasonably be inferred from the action or inaction of the individual. Where circumstances indicate that an individual has a certain understanding, knowledge, or acceptance, or certain information has been brought to the attention of an individual, consent may be implied.

## **Safeguards**

Departments will protect and secure personally identifiable information regardless of the format in which it is held against loss, theft or breach and safeguard the information from unauthorized access, disclosure, copying, use or modification.

## **Informal Access to Information Request**

Informal requests are handled by the employee responsible for the information, in consultation with the administrator as necessary.

See Appendix A and Appendix B

## **Limitations in Respect of Format**

If access to a record involves providing a copy of the record, the copy is not required to be provided in the requested format if the record does not exist in that format within the Village.

## **Denied Access to Informal Request**

If an applicant has been denied an informal access to information, the applicant may formally apply to the Village’s Administrator with a Formal Access request.

## **Formal Access to information Requests**

1. If an applicant has been denied access to an Informal Access to Information, the applicant can then proceed by completing a Formal Access Information Request which would be directed to the Administrator if they choose. (Form A LAFOIP Regulations)
2. A Formal Access to Information Form must be forwarded immediately to the Village office upon receipt as LAFOIP requires adherence to legislated timelines. All information within the form is considered confidential and be handled appropriately.
3. Formal requests are subject to an application fee, pursuant to LAFOIP’s regulations, payable at the time of the application, subject to Section 9 of LAFOIP.

4. The Administrator will review the application and provide written notice to the applicant within thirty (30) days of receipt.
5. If access to the information is denied disclosure, the Administrator must quote the applicable Sections and provisions of LAFOIP verifying legislative exemptions.
6. If a portion of a record contains information where the applicant was denied access, the Administrator must provide partial disclosure to the remaining portions of the record by severing the denied record portion.
7. Requests which exceed an hour of processing time which is included with the \$20 Formal Access to information application fee will require a fee estimate provided to the applicant before processing. Fees will be administered in accordance with LAFOIP regulations.

## **Exemptions**

Part III of LAFOIP provides that certain types of records are or may be protected and not released to the public. There are several mandatory and discretionary provisions under LAFOIP authorizing the Administrator to refuse to disclose records, and, in some cases, the existence of records, in response to a Formal Access Request.

## **Individual Access**

An Individual who has been provided access to a record that contains their personal information is entitled to request correction of their personal information if the individual believes that there is an error or omission within the records.

A request for access to personal information shall be made by completing a Formal Access to Personal Information Request Form in respect of the following:

- a) Each personal information bank that is subject of the request, or
- b) Each class of personal information that is not contained in a personal information bank.

An individual who makes a request for access to personal information shall provide adequate identification to the Administrator prior to access to their information and may be required to present themselves in person

## **Provide Recourse**

An Applicant who is not satisfied with the Village's informal or formal access request response may apply to the OIPC (Office of the Saskatchewan Information and Privacy Commissioner) for a review of the matter.

The Village is obligated to cooperate and collaborate with the OIPC, the applicant and any third parties to further an amenable result wherever possible in the conduct of the access to information review.

The Administrator will determine whether to comply or not with any recommendations of the OIPC following a review, with regard for the requirements of LAFOIP, the public interest and mandate of the Village and the principles of Open Government.

If the Applicant and/or third party are not satisfied with the Administrator's decision to comply or not comply with the recommendation of the OIPC, they may appeal that decision to the court, where the court's decision will be binding.

## Offences and Sanctions

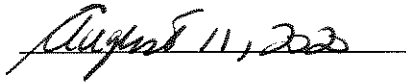
Section 56(1) of LAFOIP outlines the offences and sanctions for those persons, who knowingly access, collect, use and disclose personal information in contravention of LAFOIP or its regulations.

Section 56(3) of LAFOIP outlines the offences and sanctions for any person who, without lawful justification, willfully obstructs, hinders or resists any person of power, or refuses or willfully fails to comply with any lawful requirement, or willfully makes any false statement or misleads any person of power.

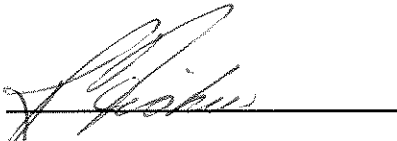
The Village shall have the ability to exercise its power as the employer for employees within the Village, and through an investigative procedure, if it is deemed that an employee has displayed willfully, negative actions as indicated, then the Village may use their discretion to deal with any disciplinary action as each case may require.



Administrator



Council Meeting Date



Mayor



# Appendix A – Freedom of Information and Access to Information Policy

## Informal Access Request Guidelines and Fee Structure

Third Party and Personal Information regarding Property Information:

Property Owners: Property files will be made available free of charge to registered owners who are requesting a file search from their specific property files, except for searches that take more than one hour to complete, in which case, the general file search fee shall apply. Proof of ownership will be required along with a complete legal description and civic address of the property. Personal Identification will be required as proof of ownership.

Non-Property Owners: If the person requesting the information is not the owner, written consent from the owner(s) will be required along with complete legal description and civic address of the property. Staff, at its discretion, may confirm the written consent of the owner(s). If written consent is not provided, the Applicant may make a request under LAFOIP. Third Party information and use of personal information will be forwarded to the Administrator.

Third Party: If third party information is in question, the Administrator will be notified and it will be forwarded immediately to the Administrator as a Formal Access Request. Only the Administrator will decide on the release of Third Party information or if the request involves a Third Party.

### **Informal Access Requests shall be in the following manner:**

1. Custom Research:  
Generation of a custom report based on the customer's specific request, will be charged at a rate of \$100 per hour for developing and producing the report. A custom report requires a substantial amount of work and involves the creation of new information for the client. The availability of the report is at the discretion of the Administrator based on the availability of staff resources.
2. Drawings and maps:  
Requests for drawings and maps for civic addresses, zoning, transit, tourism, traffic counts, underground services or similar drawings or maps, will be charged the following:  
Up to 11"X17" - \$5
3. Printing, Photocopying and Other Fees:  
There will be a cost of \$0.25 per page for photocopies or computer printouts. Any documents protected by copyright, will not be provided.

Information provided as follows will include the appropriate fees indicated:

Regular Mail - \$5  
Registered Mail - \$12  
Courier- Actual Costs  
Facsimile - \$5  
Save to digital Media - \$5, plus actual cost of media

Email – No Charge

All fees can be waived at the discretion of the Administrator.

4. Procedure for Processing Requests:

- a. Applicant fills out and signs an Informal Access Request Form, identified as Appendix B. The Applicant must provide sufficient detail to enable the Office to identify the request. Once the information has been identified as public information and does not impose LAFOIP Exemptions, it will be reviewed.
- b. The office will charge an application fee of \$5.00. Where time in excess of one hour is spent searching, an additional fee of \$15.00 for each half hour or portion of a half hour in excess will apply. This fee may be waived at the discretion of the Administrator and only in extenuating circumstances.
- c. The processing of the request will only commence when the Form is returned and the Applicant requesting the information has signed off on the conditions. In the case of a request placed over the telephone or fax, the Form is to be faxed or emailed to the customer. The form will indicate all of the information contained in the policy and fees payable.
- d. If there is any question as to whether a request should be processed through a Formal Access Request, the request shall be forwarded immediately to the Administrator for review.
- e. Staff will inform the Applicant that at least 48 hours must be allowed to complete a request and requests of especially large files may require more time than the initial 48 hours and the applicant will be notified regarding necessary prioritization and any additional fee estimates. An estimate shall be provided if research will take more than an hour. It should also be discussed that if the information requested is not available, the Village is not responsible.
- f. Original documents or complete files are not to be directly provided to the Applicant.
- g. Once research is completed, the Applicant will be contacted and the information will be provided once the full payment has been received by the Village.
- h. The Village shall retain the right to prioritize any request and notify the Applicant when the request can be completed.



## Appendix B

### Informal Access Request Form

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_

Address: \_\_\_\_\_ City/Town: \_\_\_\_\_ Prov: \_\_\_\_\_

Postal Code: \_\_\_\_\_ Telephone(Home): \_\_\_\_\_

- Assessed and/or registered owner  
 Authorized Agent with written consent from owner

#### Details of Requested Information

Legal Description: \_\_\_\_\_

Civic Address: \_\_\_\_\_

#### Detailed Description of Record

Signature of Applicant: \_\_\_\_\_

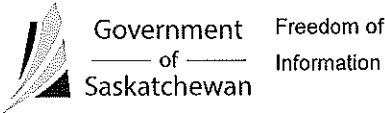
#### For Office Use Only

Date Received:	Application No.
<input type="checkbox"/> Application Payment Made <input type="checkbox"/> Final Payment Made	<input type="checkbox"/> Proof of Ownership(personal Identification) <input type="checkbox"/> Written Consent
Date Reviewed:	Signature:
Date Information Issued:	
Amount of Time Spent: _____ Actual Cost: \$ _____	Account no.

PART III

Form A

[Clause 6(1)(a) of the Act]



Access to Information Request Form

LOCAL AUTHORITY FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY

[Clause 6(1)(a)Form A]

Personal information and personal health information on this form is collected under The Local Authority Freedom of Information and Protection of Privacy Act and The Health Information Protection Act and will be used or disclosed only as necessary to respond to your request.

INFORMATION ABOUT YOU

Form fields for personal information: Last Name, First Name, Name of Company or Organization, Address, City, Province, Postal Code, Day Phone Number, Alternate Number, Fax Number, Email.

INFORMATION ABOUT THE RECORDS YOU ARE REQUESTING

Are you requesting:

- checkbox your own personal information.
checkbox personal information about someone other than yourself (attach proof that you have authority to receive the information requested).
checkbox general information.

To which local authority are you making your request? Enter the name of the local authority that you believe has the records you are requesting.

Text input field for local authority name.

What records do you wish to access? Please provide a detailed description of the records you wish to access. This information will help locate the records.

Large text input area for detailed record description.

LOCAL AUTHORITY FREEDOM OF INFORMATION  
AND PROTECTION OF PRIVACY

L-27.1 REG 1

What is the time period for the records you are requesting (if applicable)?

[Redacted area]

There is a processing fee of \$20 payable to the local authority. The person managing your request may contact you to seek clarification or to discuss aspects of the request, including the application of additional fees if necessary. You may request a waiver of the processing fee or additional fees, but may be required to provide evidence of substantial financial hardship (see section 8 of the regulations). Please keep a copy of this request for your records.

Check if requesting waiver of processing fees:

I request that payment of the fees related to this request be waived because payment will cause me substantial financial hardship. Details are as follows:  
(Use reverse of form if additional space is required.)

\_\_\_\_\_  
*Signature of Applicant*

**FOR OFFICE USE ONLY**

Date Received

Application Number

30-Day Response Date

\_\_\_\_\_