

Town of Birch Hills

Policy no. 02-2022

FREEDOM OF INFORMATION AND ACCESS TO INFORMATION POLICY

Purpose

To Define and establish legislative and regulatory compliant procedures, guidelines and fee structure for the administration of informal and formal access requests in relation to the collection, use, access and disclosure of information as required by the Town's Statutory obligation in accordance with LAFOIP.

To enhance transparency and accountability in regards to Town's access to information in order to build and maintain public record trust and further public engagement and collaboration through Open Government and the Active Dissemination of Public Information.

To mitigate risk and harm to individuals as a result of non-compliant collection, access, use, disclosure or protection of personal information.

Policy Statement

The Town 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 Town's records and information in accordance with LAFOIP's regulations through a Formal Freedom of Information Access Request or through an Informal Access Request.

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

Scope

Council, all employees, and contracted third parties who collect, use, access and disclose general, personal, sensitive and confidential information on behalf of the Town.

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

The public and any individual who wish to access records and information from the Town of Birch Hills.

Responsibility

The CAO 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 CAO is responsible for the Town's compliance; protection of all personal information held by the Town 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 Town 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 CAO.

Applicants will be required to complete the following:

- a) A Formal Access to information Request and submit the applicable Application fee.

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

Procedure

Open Government

The Town promotes a governing culture of open Government and Routines Disclosure that recognizes the public has the right to access public documents and proceeding of the Town to further optimum transparency, accountability, and increased public engagement. Continued Active Dissemination of information on the Town's website and Social Media will promote the Town'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 be informed before or at the time of collection why the information is required and how it will be utilized.

Consent

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

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 Town.

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

Accuracy

When collecting, using, and accessing information ensure accuracy of the information when deciding about the individual or when disclosing information to third parties.

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.

Openness

The Town will be transparent to the public and employees about the policies, procedures and best practices for the management of personally identifiable information.

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 Town.

Denied Access to Informal Request

If an applicant has been denied an informal access to information, the applicant may formally apply to the Town's CAO 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 CAO if they choose.
2. A Formal Access to Information Form must be forwarded immediately to the CAO 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 a \$20 application fee, pursuant to LAFOIP's regulations, payable at the time of the application, subject to Section 9 of LAFOIP.
4. The CAO 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 CAO 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 CAO 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 CAO 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 CAO 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 Town's informal or formal access request response may apply to the OIPC for a review of the matter.

The Town 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 CAO 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 Town and the principles of Open Government.

If the Applicant and/or third party are not satisfied with the CAO'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 Town shall have the ability to exercise its power as the employer for employees within the Town, and through an investigative procedure, if it is deemed that an employee has displayed willfully, negative actions as indicated, then the Town may use their discretion to deal with any disciplinary action as each case may require.

Appendix A – Freedom of Information and Access to Information Policy

Informal Access Request Guidelines and Fee Structure

Informal Access Requests shall be in the following manner:

1. General Information:
 - a. The Applicant is required to fill out an Informal Access Request Form, identified as Appendix B, requesting the information they require. 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 CAO.
 - c. 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 CAO for review.

Third Party and Personal Information regarding Property Information:

Property Owners: 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 information will not be provided

Third Party: If third party information is in question, the CAO will be notified and it will be forwarded immediately to the CAO as a Formal Access Request.

2. Custom Research:

Generation of a custom report based on the customer's specifications 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 CAO based on the availability of staff resources.
3. 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

4. Printing, Photocopying and Other Fees:

There will be a cost of \$0.25 plus GST per page for photocopies or computer printouts. Any documents protected by copyright, will not be provided. That we charge a fee of 100/hr, when the office staff are required to find and provide copies of contracts and paperwork that the rate payer should retain for their own records. A prepayment of \$200.00 will be required prior to any work commencing.

Information provided as follows will include the appropriate fees indicated:

Regular Mail - \$5

Registered Mail - \$11

Courier - Actual Costs

Facsimile - \$5

5. Procedure for Processing Requests:

- a. Applicant fills out and signs an Informal Access Request Form. 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.
- b. 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 Town is not responsible.
- c. Original documents or complete files are not to be directly provided to the Applicant.
- d. Once research is completed, the Applicant will be contacted and the information will be provided once the full payment has been received by the Town.
- e. The Town 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

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Only the CAO will decide on the release of third-party information or if the request involves a third party. All questions will be referred to the CAO if there are any concerns on the matter.

Informal Access Request

General File Search Fee:

If the person requesting information is not the owner, written consent from the owner(s), will be required along with the complete legal description and civic addresses 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 CAO.

The office will charge an application fee of \$5. Where time in excess of one hour is spent searching, a fee of \$15 for each half hour or portion of a half hour in excess of one hour shall apply. This fee may be waived at the discretion of the CAO and only in extenuating circumstances.

Property Owners:

Property files will be made available free of charge to registered owner(s), 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 complete legal description and civic address of property. Personal identification will be required as proof of ownership. Failure to provide proof of ownership will automatically result in the application fee.

Custom Research and Report

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 a report. A custom research 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 CAO based on the availability of staff resources.

Informal Access Request

A request is made by filing out and signing an informal Access Request Form. A request will only be commenced when the form is returned and the Applicant requesting the information has signed off on the conditions.

The Applicant must specify in detail the information they require so that staff can efficiently retrieve the information. The Town is not responsible for locating information that is expected to be available but is not located.

Original documents or complete files will not be directly provided to an Applicant

Applicants must allow at least 48 hours to complete a request. Requests of especially large amount may require more time than the initial 48 hours and the Applicant will be notified and provided with a cost estimate. The CAO shall retain the right to prioritize any request and notify the Applicant when the work can be completed.

Printing, Photocopying and Other Fees

There will be a cost of \$0.25 per page plus GST, for photocopies or computer print outs. Any documents protected by copyright, will not be provided.

Costs for provided information will be: Regular Mail - \$5.00; Registered Mail -\$11.00; Courier – Actual Cost; E-mail – No Charge.

I have read and understood the aforementioned conditions and that prior to receiving access to the records that I have requested; I am required to pay the fee.

Signature of Applicant: _____

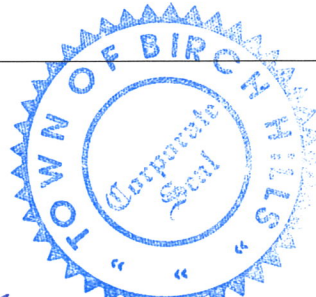
For Office Use Only

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

Adopted by Council on March 23, 20 22.



Mayor



Chief Administrative Officer