

**Town of Drumheller
Bylaw No. 02-09**

BEING A BYLAW OF THE TOWN OF DRUMHELLER, IN THE PROVINCE OF ALBERTA TO REGULATE THE ACCESS OF INFORMATION FOR VARIOUS ADMINISTRATIVE SERVICES.

WHEREAS, in accordance with the Municipal Government Act, S.A. 2000, Chapter M-26, as amended and the Freedom of Information and Protection of Privacy Act, S.A. 2000, F-25, as amended, an applicant has the right to access their own personal information and other municipal records, unless there is a reason why this information should not be disclosed; and

WHEREAS, in accordance with the said Acts, upon request of any person, information in the custody or control of the municipality must be provided within a reasonable time and on payment of a reasonable fee established within this by bylaw or the Freedom of Information and Protection of Privacy Act; and

WHEREAS, in accordance with the said Acts, Council may set fees from time to time by ordinary resolution of Council, duly assembled.

WHEREAS, in accordance with the said Acts, a request for review may be made to the Privacy Commissioner;

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

PART I: BYLAW TITLE

That this bylaw shall be known as the "Access to Information and Administrative Fees for Services" Bylaw.

PART II: PURPOSE

1. The purpose of this bylaw is to facilitate access to information in the custody or control of the Town and to ensure personal information is protected from unauthorized collection, use, or disclosure. Schedule F outlines the process of requesting access to information and is attached hereto.
2. The Town acknowledges that:
 - a) information has value and can also be a marketable asset managed by the Town; and
 - b) it is the responsibility of the Town, to consider provision of information that is routinely available;
 - c) it is the responsibility of the Town to protect personal information;

- d) it is the responsibility of the Town, through its employees, to respond to persons requesting information as quickly and conveniently as possible, unless the information can not be disclosed in accordance with the Freedom of Information and Protection of Privacy Act.

PART III: DEFINITIONS

Applicant: the individual making a request for information in accordance with this bylaw.

Chief Administrative Officer: the Town Manager, as appointed pursuant to the Municipal Government Act.

Custody: means having physical possession of a record, even though the Town does not necessarily have responsibility for the record. Physical possession normally includes responsibility for access, managing, maintaining, preserving, disposing, and providing security for a record.

Continuing Request: means an access that continues to be in effect for up to two years. A delivery schedule is established with the Applicant's agreement, and the request is repeatedly processed according to the schedule. Each time the request is processed, records created since the last delivery of the schedule are provided to the Applicant.

Control: means the power or authority to manage, restrict, regulate or administer the use or disclosure of a record.

Council: the Council of the Town of Drumheller

Error: mistaken or wrong information, or information not reflecting the truth.

Exempt Information: as defined in PART IV of this Bylaw.

Freedom of Information and Privacy Coordinator: is the Town Manager for the purposes of the Freedom of Information and Protection of Privacy Act. The Town Manager may delegate the duties for the Freedom of Information and Privacy Coordinator.

Head of the Public Body: shall be the Town Manager of the Town of Drumheller, and includes any person who holds the position of Town Manager in an Acting capacity.

Omission: information in a Record which is incomplete or missing or has been overlooked.

Personal Information: means recorded information about an identifiable individual, including but not limited to:

- the individual's name, home or business address, or home or business telephone number;
- the individual's race, national or ethnic origin, color or religious or political beliefs or associations;
- the individual's age, sex, marital status or family status;
- an identifying number, symbol, or other particular assigned to the individual;
- the individual's fingerprints, blood type or inheritable characteristics;
- information about the individual's education, financial, employment or criminal history, including criminal records where a pardon has been given;
- anyone else's opinion about the individual; and
- the individuals' personal views or opinions, except if they are about someone else.

Record: as defined in the Freedom of Information and Protection of Privacy Act, Section 1, information recorded in any form, including books, documents, maps, drawings, photographs, letters, vouchers and papers, and any other information that is written, photographed, recorded and 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.

Refusal: an information request which is refused by the Town in accordance with the Freedom of Information and Protection of Privacy Act.

Requests: Formal requests relate to information not routinely provided. These types of requests require the completion of a "Request for Access to Information" form, prior to release of the information. See Schedule A. 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.

Routine Disclosure: release of specific information on a regular basis, without the requirement of completion of a "Requests for Access to Information" form.

Third Party Information Requests: a request for information relating to a person, group of persons, or an organization other than the Applicant or the Town. This information may directly impact, involve, or belong to the originating party, and cannot be released without the originating party's permission.

Town: the Municipal Corporation of the Town of Drumheller.

PART IV: RIGHT TO INFORMATION

On a request pursuant to Part V of this bylaw, provided the Applicant pays the applicable fess as set out in the Fees Schedule of the Town of Drumheller and/or the Freedom of Information and Protection of Privacy Act, each Applicant has a right to:

- a) access a record that is in the custody and/or control of the Town;
- b) view a record that is in the custody and/or control of the Town;
- c) request copies of a record that is in the custody and/or control of the Town;
- d) request corrections to personal information maintained by the Town; and
- e) receive a copy of a record maintained by the Town in a format that is reasonably available, unless the record is exempt information pursuant to this bylaw.

PART V: REQUESTS AND FEES

There are two types of requests for information: Formal Requests and Informal Requests.

INFORMAL REQUESTS:

1. If the requested information may be obtained by and Informal Request, any individual may request information by telephoning, writing or by visiting (in person), the department, or office where the record is kept, and sufficient detail must be provided in the description to identify the record required and subject to the fee set out in the Town's Fees Schedule.

FORMAL REQUESTS:

1. If the requested information must be obtained by a Formal Request, the Applicant will be required to complete a "Request for Access to Information" form as prescribed in Schedule A, which must be accompanied by the initial FOIP request fee.
2. 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 in Schedule B.
3. Any Applicant has the right to request information relating to a person, group, or organization other than the Applicant or the Town by completing a "Request for Third Party Information" form as prescribed in Schedule C subject to the initial FOIP request fee.
4. Any Applicant may request access, for research or statistical purposes to personal information found in the Town's records covered by the Freedom of Information and Protection of Privacy Act. If this request is approved by the

Town of Drumheller, prior to obtaining access to records containing personal information, the Applicant will be asked to sign a legal agreement that ensures that individual's privacy will be protected when the information is in the Applicant's custody as prescribed in Schedule D.

5. All Formal Requests to access records held by the municipality shall be reviewed to determine whether a fee is to be charged. If the information being requested is personal information there will be no fee charged. If the information being requested is general information there shall be an initial FOIP Requests Fee.
6. Where an estimate is provided to an application in accordance with Section 93(3) of the Act, the Applicant shall be provided with a detailed estimate setting out: the time and costs required to search, locate and retrieve the record; the time and costs of preparing the record for disclosure; the costs to copy the record; any computer time involved in locating and copying a record or re-programming to create a new record; supervision costs when an applicant wishes to examine the original record, when applicable; and any costs for shipping records or copies of records.
7. An estimate for access to a record of the personal information of the Applicant would only include the cost of copying the record.
8. In the case of continuing requests, the estimate shall include the total fees payable over the course of the continuing request.
9. If the fee estimate is over \$150.00, a minimum of 50% shall be paid in advance of the request being processed. The Applicant shall agree in writing that the balance of any fee owing shall be paid prior to the records being disclosed to the Applicant.
10. If the fee estimate is too high, provision shall be made for making a refund to the Applicant. If a fee estimate is too low, the Town shall request additional fees from an Applicant.
11. All Formal Requests will be reviewed to determine the amount of fee to be charged in accordance with the Freedom of Information and Protection of Privacy Act fee schedule. The information requested will be identified and tracked by the Town's Freedom of Information and Protection of Privacy Coordinator.
12. Any questions or concerns regarding the release or access to information held by the Town or, an agent acting on behalf of the Town, or completion of a request form, may be direct to the Town's Freedom of Information and Protection of Privacy Coordinator.

PART VI: RESPONSE TO REQUESTS

1. If an employee determines that the request for information is a Formal Request, then the employee shall require the Applicant to complete a "Request for Access to Information" form as prescribed in Schedule A. The Applicant shall consult with the Freedom of Information and Protection of Privacy Coordinator if any clarification is required regarding the information being requested.
2. Provided the record requested is not for exempt information, and if an employee is able to access the record, within 30 days the Applicant will be:
 - a) provided with a written estimate of any fees that will be charged;
 - b) allowed to view the record; and
 - c) if the record is reasonably capable of being copied, provided with a copy of the record requested, subject to payment of the applicable fee.
3. If the requested record cannot reasonably be accessed within 30 calendar days of the date of receipt of the request, the Applicant must be told where, when and how a copy of the record will be provided.
4. Pursuant to Section 14(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 Information Privacy Commissioner's permission for a longer period.
5. If the application is refused, the Town shall provide the Applicant with:
 - a) written notification as to the reasons for the refusal and the provision on which the refusal is based.
 - b) the name, title, business address and business telephone number of an officer or the Freedom of Information and Protection of Privacy Coordinator who can answer any questions the Applicant may have about the refusal.
 - c) the name and address of the Information and Privacy Commissioner, who upon request of the Applicant, may review any decision the Town makes in relation to a request.

Notwithstanding the foregoing, the Freedom of Information and Protection of Privacy Coordinator may refuse to confirm or deny the existence of a record containing information described in Section 17 to 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.

6. The Town must respond in writing within 30 days of receiving a "Request for Correction of Personal Information" form stating:

- a) a correction has been made; or
 - b) an annotation or linkage has been attached to the information linking the information with the correction that was requested and not made.
7. Applicants may be:
- a) refused on the basis that:
 - (i) the request did not meet the requirements as set out in this Bylaw or the Freedom of Information and Protection of Privacy Act.
 - (ii) the information requested is exempt information:
 - (iii) for any other reason provided for in the Freedom of Information and Protection of Privacy Act.
8. At any time, if information requested is scheduled for destruction under the Retention and Disposition of Inactive Records Policy, a copy of the written request, initialed by the Town Manager, 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 the request has been granted or refused.

PART VII: EXEMPT INFORMATION

1. Exempt information is information
- a) which may:
 - (i) be an unreasonable invasion of personal privacy;
 - (ii) cause financial harm;
 - (iii) threaten anyone else's safety or mental or physical health;
 - (iv) interfere with public safety; or
 - (v) harm law enforcement efforts.
 - b) which is otherwise information which the Freedom of Information and Protection of 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.
2. Advice or information given and deliberations or directions made at a private meeting of Council, or a private meeting of a 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 fifteen (15) years or more, are Exempt Information.

PART VIII: REQUESTING A REVIEW BY THE INFORMATION PRIVACY COMMISSIONER

1. Under Section 65(1) of the Freedom of Information and Protection of Privacy Act, the Applicant who made a Formal Request has the right to ask the Information and Privacy Commissioner to review any decision, act or failure to act by the Town by completing the "Request for Review" form as prescribed in Schedule E.
2. Third parties, who have been notified of a decision to give access to information in records that might harm their personal privacy or their business interests, also have a right to ask the Commissioner to review any decision the Town makes in relation to that request before any records or parts of records are disclosed as per Section 65(2) of the Freedom of Information and Protection of Privacy Act.
3. A relative of a deceased individual may ask the Commissioner to review a decision of the Town under Section 40(1)(cc) of the Freedom of Information and Protection of Privacy Act not to disclose personal information about the deceased individual as per Section 65(4) of the Freedom of Information and Protection of Privacy Act.

Effective Date This Bylaw takes effect on the date of the third and final reading.

Where a request for information was given and not disposed of before the coming into force of this Bylaw, the request is deemed to be a request made on the date of the third and final reading, under the provisions of the Act.

This Bylaw shall repeal Bylaw 16-99 and Bylaw 22-99 of the Town of Drumheller.

READ A FIRST TIME this 19th day of January 2009

READ A SECOND TIME this 19th day of January 2009

READ A THIRD AND FINAL TIME this 19th day of January 2009

MAYOR

CHIEF ADMINISTRATIVE OFFICER