



## RURAL MUNICIPALITY OF ST. ANDREWS POLICY AND PROCEDURES MANUAL

<b>POLICY NAME:</b> Public Access to Information Policy	<b>POLICY NUMBER:</b> ADM-06
<b>POLICY MANUAL SECTION:</b> Administration	<b>RESOLUTION NUMBER:</b> 2022-180
<b>DATE ADOPTED:</b> November 24, 2020	<b>RESOLUTION DATE:</b> May 10, 2022
<b>REVISION DATE:</b> May 10, 2022	<b>REVIEW DATE:</b> As Required
<b>STATUS:</b> Active	<b>NUMBER OF PAGES:</b> 4

### **PUBLIC ACCESS TO INFORMATION POLICY**

#### **Purpose**

The Rural Municipality of St. Andrews is committed to transparency in the operations of the Municipal government and informing citizens about the affairs of the Municipality. In addition, as of April 2, 2000, *The Provincial Freedom of Information and Protection of Privacy Act* has been extended to apply to Municipalities. The R.M. of St. Andrews wishes to ensure its policies and procedures are clear and fully in compliance with the *Act*.

The purpose of this policy is to clarify the procedures for public access to information outlined in *The Municipal Act* and *The Freedom of Information and Protection of Privacy Act* as well as to establish rates to be charged for the search and copying of information to be charged by the Municipality.

#### **Policy**

- 1) Whereas Section 80 of *The Freedom of Information and Protection of Privacy Act* requires that each local public body designate a person or group of people as its Head for the purposes of this Act; the Rural Municipality of St. Andrews has designated the Mayor as the Head of the Municipality for the Purposes of the Act (Res. 19, 9/14/99).
- 2) The Municipality shall appoint an employee as an access and privacy coordinator who is responsible for ensuring the provisions of *The Freedom of Information and Protection of Privacy Act*, and provisions of this policy are fully implemented and followed.
- 3) Records made available through provisions in *The Municipal Act* shall be made available without an application through the FIPPA. Such records include:
  - a) Assessment rolls;
  - b) Financial plans;
  - c) Financial statements;
  - d) Reports of the auditor;
  - e) Minutes of meetings of Council and Council committees, except the minutes for any part of a committee meeting closed under subsection 152(3) of *The Municipal Act*.
  - f) Agendas of meetings of Council and Council committees, except for any part of a committee meeting closed under subsection 152(3) of *The Municipal Act*.
  - g) By-laws and resolutions of Council and resolutions of Council committees;
  - h) A report of the Ombudsman received under clause 37(2)(b) of *The Ombudsman Act*.

- 4) The municipal website shall facilitate access to the above referenced documents as follows:
  - a) A minimum of 5 years of Financial Plans and Reports of the Auditor;
  - b) Minutes of Council and Committees of the previous 2 calendar years;
  - c) Agendas of Council and Committees of the previous 2 calendar years;
  - d) Recordings of meetings of Council and Committee as become available, except for any part of a Council or Committee meeting closed under subsection 152(3) of *The Municipal Act*, and shall not be retained online for a period greater than the 6 previous calendar months
  - e) Enforcement By-laws
- 5) Information other than that outlined above in sections 3 and 4 will be provided based on the provisions of the FIPPA, outlined below.
- 6) If the preparation of a request requires research, preparation or copying, the Municipality reserves the right to charge fees, as established below, to recover the costs of preparation.
- 7) An estimate of fees will be provided before the preparation of records is undertaken.

#### Procedure-Applications

- 1) The Municipality shall ensure that a supply of Application for Access forms is available in the Municipal office.
- 2) An Application for access shall be date-stamped by a Municipal employee on the day it is received.
- 3) The Access and Privacy Coordinator shall, if possible, review the request for access the same day as it is received in order to ensure that the request is clear and that it provides the required information. If it is not possible to review the request on the day it is received, the Access and Privacy Coordinator shall review the request as soon thereafter as possible.
- 4) If a request is received that is either unclear or incomplete in some way, the Access Coordinator or delegate shall contact the applicant immediately at the phone number provided within the application, in order to clarify the nature of the request.
- 5) If an application is received by the Municipality that should have been directed to another body, the application shall be forwarded to the appropriate body as soon as possible, and no longer than seven days after receipt. The applicant should be advised of the transfer of the application by letter.
- 6) Upon determining the nature of the request, the Access and Privacy Coordinator shall notify the applicant as to whether the request has been granted in full or in part or if it has been refused. If the request is refused or granted in part, the notification shall provide reference to the provisions of the FIPPA under which the request was limited or denied.
- 7) Where the knowledge of the existence of a record itself is seen to be potentially harmful, the Access and Privacy Coordinator may, in addition to refusing access, also refuse to confirm or deny the existence of the record.
- 8) A request for information shall be responded to within 30 days of the receipt of the application. The FIPPA provides four circumstances in which the time limit may be extended:
  - a) When the applicant does not provide enough detail for identification of the requested record;
  - b) When the Municipality needs to consult with a third party;
  - c) When Municipality must search for a large number of records;
  - d) If a third party makes a complaint to the Ombudsman about a decision to grant access.

- 9) If the time limit to grant the request is extended, the Access and Privacy Coordinator shall inform the applicant in writing explaining the reason for the extension, when the response can be expected and a statement informing the applicant that they have the right to register a complaint with the Ombudsman concerning the extension.
- 10) If search, preparation or photocopying is required to respond to the request, an estimate of the fees will be provided to the applicant in advance.
- 11) The applicant has 30 days from the receipt of the estimate to respond indicating that he or she wishes to proceed with the request or to modify it to reduce the fees. If no response is received within 30 days, the application shall be considered abandoned.

### Preparation of Records

There are a number of considerations that must be taken into account when determining whether a request for access can be granted, and how it will be granted:

- 1) If the request is for information that is available without application under FIPPA, the information should be provided as it normally would be, and the application should be destroyed.
- 2) FIPPA provides that certain information **must** be refused disclosure by the Municipality if requested. This information falls into four categories:
  - a) Information concerning or affecting the privacy of a third party;
  - b) Information concerning the business interests of a third party;
  - c) Information pertaining to the deliberation of the Cabinet of the Government of Manitoba (Cabinet confidences);
  - d) Information provided in confidence by another government.
- 3) In addition to mandatory exceptions, FIPPA provides detail of categories where exceptions to disclosure are at the discretion of the head of the public body. The details of the exceptions are specified in the Act and the FIPPA handbook. These categories include information concerning:
  - a) Intergovernmental relations;
  - b) Local public body confidences;
  - c) Advice to a local public body;
  - d) Individual health or safety or public safety;
  - e) Law enforcement matters;
  - f) Security of property;
  - g) Solicitor-client privilege;
  - h) Economic and other interests of a local public body;
  - i) Information which could be expected to prejudice the use of particular testing procedures, tests or audits.
  - j) Confidential evaluations;
  - k) Preservation of heritage resources and life forms;
  - l) Information that will be available to the public.
- 4) If a portion of a record is excepted from disclosure, that portion of the record shall be severed from the record and not disclosed.
- 5) When severing information from a document, the entire document shall be examined, and the minimum possible information shall be severed to satisfy the provisions of the FIPPA.
- 6) Severing shall only be done on a copy of the document; the original document must not be altered.

- 7) The applicable exception reference (number of section, subsection and clause of the Act) shall be noted either in the margins or on top of the severed sections (covered with tape).
- 8) A copy of the severed and referenced document shall be made for the applicant.
- 9) In most cases, the smallest unit of information to be disclosed after severing is a sentence, but if some information must be removed from the sentence (such as a name), the remainder will be released.
- 10) The taped and referenced copy of the document shall be kept on file in the Municipal office with the FIPPA application.

### Fees

- 1) There is no fee for making an application under FIPPA.
- 2) For search and preparation of requests in excess of two hours, the Municipality will charge a fee of \$25 per half hour, with the first 2 hours being free.
- 3) If computer programming and/or data processing are required in the preparation of requests, a fee of \$10 for each 15 minutes of internal programming/processing will be charged, or the actual cost if it is performed by an external agency.
- 4) A fee of 20 cents per page shall be charged for photocopies and computer printouts. Applicants requesting copies of their own personal information will not be charged for copies if the copying charge is less than \$10.
- 5) The costs of courier delivery will be charged to applicants.
- 6) If applicants are to be charged for fees related to search, programming or copying, an estimate of the fees to be charged will be provided
- 7) Fee refunds will be provided if access to every record is refused or if the actual cost is less than the estimate.
- 8) The FIPPA provides that the Head of the Municipality has the discretion to waive all or part of the fees in some cases, if requested by the applicant:
  - a) If paying the fees would cause the applicant unreasonable financial hardship;
  - b) If the applicant is requesting access only to his or her own personal information and the Mayor believes it fair to waive them;
  - c) If the record relates to a matter of public interest concerning public health, safety or the environment.