



TOWNSHIP OF MCGARRY
BY-LAW NO. 2020-15
The Freedom of Information and Protection of Privacy
Routine Disclosure and Active Dissemination Policy By-law

BEING A BY-LAW OF THE TOWNSHIP OF MCGARRY, IN THE PROVINCE OF ONTARIO, TO ESTABLISH A FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ROUTINE DISCLOSURE AND ACTIVE DISSEMINATION POLICY.

WHEREAS under Section 253(1) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, subject to the *Municipal Freedom of Information and Protection of Privacy Act*, any person may, at all reasonable times, inspect any of the records under the control of the Clerk;

AND WHEREAS under Section 254(1), of the Municipal Act, 2001, S.O. 2001, c.25, as amended, a municipality shall retain and preserve the records of the municipality and its local boards in a secure and accessible manner;

AND WHEREAS under Section 10(2), of the Municipal Act, 2001, S.O. 2001, c.25, as amended, makes a provision for single-tier municipalities to pass by-laws respecting the accountability and transparency of the municipality and its operations;

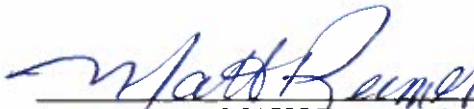
AND WHEREAS the Council of the Township of McGarry deems it expedient to establish a policy for freedom of information and protection of privacy routine disclosure and active dissemination;

NOW THEREFORE the Council of the Corporation of the Township of McGarry enacts as follows:

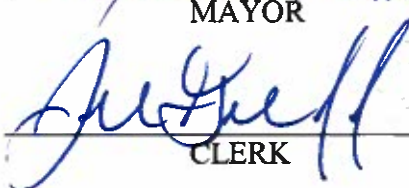
1. That the Freedom of Information and Protection of Privacy Routine Disclosure and Active Dissemination Policy attached hereto as Schedule "A" be adopted.
2. That this by-law shall come into force and effect on the day that it is passed.

READ a first and second time this 10th day of March, 2020

READ a third time and finally passed this 10th day of March, 2020



MAYOR



CLERK



THE CORPORATION OF THE TOWNSHIP OF MCGARRY
Freedom of Information and Protection of Privacy
Routine Disclosure and Active Dissemination Policy
Schedule "A" to By-law 2020-15

PURPOSE

The Township of McGarry is committed to ensuring the public are provided with government records and information easily, informally, and in accordance with the Township's commitment to accountability and transparency, as well as the principles of the Municipal Act and the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA).

SCOPE

This policy applies to all Township staff and to all records in the custody and under the control of the Township of McGarry. Personal and constituency records of the Township's elected representatives are not necessarily considered to be in the custody and control of the Township and therefore not subject to this policy.

DEFINITIONS

Active Dissemination means the periodic release of government records in the absence of a request.

Confidential information means information that is subject to the exemptions to disclosure found within the *Municipal Freedom of Information and Protection of Privacy Act* as well as any other information that the Township deems to be confidential.

Formal Requests means Freedom of Information (FOI) requests made under the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA).

Informal Requests means requests which do not require the application of the process outlined in MFIPPA.

MFIPPA means the *Municipal Freedom of Information and Protection of Privacy Act* (the Act).

Municipal Act means the Municipal Act, 2001, S.O. 2001, c.25.

Personal Information means recorded information about an identifiable individual, including:

- a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
- b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
- c) any identifying number, symbol or other particular assigned to the individual,
- d) the address, telephone number, fingerprints or blood type of the individual,
- e) the personal opinions or views of the individual except if they relate to another individual,
- f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,
- g) the views or opinions of another individual about the individual, and
- h) the individual's name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual.

Record means all recorded information in the custody of the Township, regardless of the physical form, including but not limited to paper files, microfilm, audio-visual materials, maps, electronically stored data, emails, notes, address books, draft reports, handwritten notes or annotations made by staff, diaries etc.

Routine Disclosure means the release of certain types of records in response to informal requests for information.

Township Clerk means the Township Clerk of the Corporation of the Township of McGarry who has been delegated the related powers and duties from the Mayor who serves as the "Head" under the *Municipal Freedom of Information and Protection of Privacy Act* (the Act).

OBJECTIVES

1. To establish a policy and practices for facilitating open access to and disclosure of municipal records within the custody and control of the Township of McGarry while protecting the integrity and privacy of personal information within the custody and control of the Township.
2. To ensure that exemptions applied pursuant to the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA) are limited and specific.
3. While the Township may require that formal access requests be submitted in respect of certain types of records for a variety of reasons, a practice of providing Routine Disclosure and Active Dissemination (RD/AD) for “everyday”, non-confidential records is beneficial as it allows the Township to:
 - Make more Township records available to the public and ensure that information is easily accessible to the residents of McGarry;
 - Proactively streamline the access to information process;
 - Reduce staff time in responding to formal requests for information, resulting in greater cost efficiencies;
 - Assist in reducing administrative costs;
 - Provide greater accountability and transparency in its day-to-day operations; and
 - Ensure a balance between providing greater access to Township information while at the same time protecting personal and confidential information.

ACCOUNTABILITY

This policy does not apply to records or information subject to the outlined in the Municipal Freedom of Information and Protection of Privacy Act.

No records containing personal information will be disclosed to anyone other than the individual to whom the information pertains unless first severed; unless authorized by policy, By-law or legislation.

Routine Disclosure and Active Dissemination is consistent with the Information and Privacy Commissioner of Ontario’s Access by Design principles noted below and existing Township practices to make certain information available to the public.

Access by Design principles

1. Proactive, not Reactive

With Access by Design, government institutions can take a proactive approach to promote full transparency, while at the same time, achieving cost-savings by eliminating a costly and cumbersome disclosure process.

2. Access Embedded into Design

When access is embedded into the design of public programs from the outset, it delivers the maximum degree of access to government-held information by making proactive disclosure the default. The benefits are twofold: the public can access information more directly; and government institutions can save significant resources by making their information available on a routine basis – by default.

3. Openness and Transparency = Accountability

The essential purpose of access to information legislation is to support the democratic process by ensuring that citizens have the information required to hold their governments accountable – which is not possible if government activities and documents are hidden from public view. When government proactively provides routine access to government-held information, it creates a “culture of accountability.”

4. Fosters Collaboration

The Internet has given impetus to a new phenomenon where more and more community groups are coming together online with the power to engage government policy makers directly. Government institutions need to embrace this new culture by making data readily available to these groups as part of the social contract to serve their citizens.

5. Enhances Efficient Government

The demand for government services continually increases, while governments constantly face the need for cost reduction measures. By embracing Access by Design, public institutions can improve their information management practices by eliminating the inefficient process of “reactive” disclosure, and yet provide more streamlined access to public information.

6. Makes Access Truly Accessible

Simply releasing more data is not enough. Access by Design also requires that public information be easily found, indexed and presented in user-friendly formats.

7. Increases Quality of Information

Not only is it essential for government institutions to place public data on public databases, they must also ensure that the information is accurate, reliable and up to date. Quality control and assurance protocols are vital to ensure that public participation in the democratic process remains relevant and meaningful.

EXISTENCE OF RECORDS

The Township is not required to restore records that have been properly destroyed under the authority of the Retention By-law.

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

Records actively disseminated and 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 in accordance with the requirements set out by the Act and the Township's Accessible Customer Service Policy.

RESPONSIBILITIES

Responses to requests for records made under this policy will be acknowledged in a reasonable timeframe in accordance with the Township's Corporate Communications Policy.

Department Heads

Department Heads shall be responsible for:

- a) overseeing the routine disclosure and active dissemination of records associated with their departments
- b) ensuring all divisions within their departments maintain compliance with respect to privacy as set out in legislation, and ensuring all personal information is managed and protected.

Township Clerk

The Township Clerk shall be responsible for:

- a) providing guidance to the Department Heads and staff as to whether or not information is subject to routine disclosure or active dissemination,
- b) providing guidance as to the process for a formal request
- c) processing formal requests in accordance with the delegated authority of the Head under MFIPPA.

Staff

Staff shall be responsible for:

- a) assisting the public with informal requests for records
- b) protecting personal information to which they have access
- c) consulting with their supervisor or the Township Clerk when uncertain about disclosure and/or dissemination.

POLICY GUIDELINES

Routine Disclosure and Active Dissemination

There are a number of records and types of information which are available via Routine Disclosure, meaning that a formal access request is not necessarily required in order to obtain or view the information.

Access to Township information and records will, wherever possible, be made available to the public via the Township website, orally, or through public inspection at the Township's Municipal Office.

Those documents identified in, but not limited to, Appendix "A", can be released through the process of routine disclosure and/or active dissemination according to the noted conditions for releasing records. Said records are identified in the appendix by an "RD" Routine Disclosure or and "AD" Active Dissemination.

Where a record is not listed in Appendix "A" the Department Head shall ensure that a record does not contain personal information before it is actively disseminated.

In addition, any request for building, planning or engineered drawings should be reviewed by the Department Head/Manager/Supervisor, in consultation with the Township Clerk, prior to disclosure due to copyright protection laws.

Active Dissemination

Methods of active dissemination of records include, but are not limited to, posting on the Township's website, dissemination of posters, pamphlets, flyers, handouts, publications etc., media releases, and advertising.

Requests for Routine Disclosure

1. Informal requests will be accepted verbally, in writing, or electronically. Whenever possible, the record will be disclosed in the format requested where disclosure complies with this policy and applicable legislation. For example, upon receipt of a request for electronic records, the records will be provided in electronic form. However, should it be deemed imprudent or impractical to provide documents in the requested format, the record will be disclosed in the format found by staff to be the most appropriate and efficient.
2. Requests for records made under this policy should be directed to the responsible department. Notwithstanding, the Township reserves the right to require at any time that requestors make their requests through a single point of contact to be determined by the Township.
3. Repetitive requests by an individual or organization for significant volumes of records, the separation of a request into several small requests totaling a large volume, requests made to more than one department related to a specific subject or issue will be centrally coordinated and referred to the Township Clerk or designate.
4. Requests determined to be frivolous or vexatious according to the Township's Corporate Communications Policy may be refused by the department head or designate in consultation with the Township Clerk.
5. Fees may be charged for the search time and/or reproduction of records where authorized by policy, bylaw or statute.

RECORDS NOT ROUTINELY DISCLOSED

The following types of records shall not be disclosed except pursuant to a MFIPPA request:

- a) Closed meeting agendas, minutes, and reports
- b) Negotiations for the buying or selling of land addressed in closed session
- c) Unit prices and other proprietary information contained in tenders and proposals without the permission of the bidders
- e) Personal information about an identifiable individual who is not a business or company
- f) Any information subject to solicitor client privilege or otherwise protected by MFIPPA, the Municipal Act, or any other Act.

Confidential Information

Although a primary focus of MFIPPA is to facilitate access to government information, there are limitations to that access. These limitations are in place to protect personal information, as well as sensitive information, in the custody and control of government.

Under MFIPPA, there are two types of exemptions that must be considered when assessing whether information is to be disclosed:

a) **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.

b) **Discretionary exemptions** – requiring an institution to apply discretion and good judgment when determining whether or not to disclose the record. Such records include:

- draft by-laws, records of closed meetings where such are authorized by statute;
- advice or recommendations within the 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 or safety of an individual;

- information already available to the public or soon to be published

Although the above noted exemptions provide direction as to what must or may be considered when assessing whether or not to disclose, there are times when the above exemptions do not apply.

Certain exemptions (above) do not apply:

- a) if a compelling **public** interest outweighs the purpose of the exemption; or
- b) if there is a **grave** environmental, health or safety hazard, regardless of whether or not a formal request for information has been made.

PERSONAL INFORMATION

The Township will not disclose personal information through routine disclosure or active dissemination practices. Requests for personal information, or any record that may contain personal information, must be submitted formally under the MFIPPA process.

In addition to formal requests by the public, it should be noted that staff and/or members of Council do not have the right to access personal information by virtue of their employment/office. Use and disclosure of personal information must be directly related to their job duties/office, and in accordance with the reason the information was collected. Members of staff and members of Council must make requests for records in accordance with this policy and all applicable legislation.

Collection of Personal Information

Staff may collect personal information only with legal authority. Legal authority is present under the following situations:

- legislation or regulations require the collection of personal information. Examples include: applications for employment, planning permissions, health & safety, parks & recreation programs, a private sewage system, and documentation of workplace injuries;
- personal information is necessary for law enforcement. Examples include: by-law enforcement, fraud investigations, licensing, and complaint investigations;
- staff must have the personal information to operate legally mandated Township functions, or Township by-laws allow the collections. There are many situations where this occurs, including: Payroll and benefit administration and performance appraisal of employees, and workplace investigations.

In addition, personal information collected by Township staff shall be done in accordance with the provisions of MFIPPA and other privacy legislation. The collection of information shall be limited to only that information which is required in order to administer the programs and services of the Town.

Wherever possible, personal information is to be collected directly from the individual to whom the information relates. If using an indirect or alternative manner of collection, staff must adhere to the guidelines stipulated in MFIPPA.

Notice of Collection

On the initial collection of personal information from a Township employee/client, or when information is collected for a new, unrelated purpose, the individual to whom it relates must be notified of:

- the legal authority for collecting the information (statute, regulation, or by-law);
- the principal purpose(s) of the collection; and
- the title, business address and telephone number of an employee who can answer questions about the collection.

This information is referred to as the Notice of Collection.

Use of Personal Information

Personal information collected by the Township will be used for the purpose or activity for which it was originally collected or for a 'consistent purpose'. A 'consistent purpose' means that the individual to whom the information relates might reasonably have expected the use/disclosure.

The use of personal information for any other purpose shall only be permitted with the consent of the individual to whom the information relates, or in accordance with the provisions of MFIPPA.

In cases where personal information is used or disclosed for a non-routine purpose (e.g. information disclosed to a by-law officer for an investigation), the irregular use or disclosure must be documented in the affected person's file or records.

Council Communications/Delegations

The following process shall be applied when dealing with Council Communications/Delegations:

- Communications/delegations directed to the Township for the purposes of Council or Committee consideration shall include the name and/or address of the sender/delegate, if the name and/or address pertains to the matter before Council or Committee, and shall be considered public record;
- The name of the sender, their signature, and the property address of the sender (if relevant) shall form part of the public record;

- Any additional personal information on communications (i.e. personal telephone numbers, personal e-mail addresses, etc.) shall be severed, prior to disclosure, unless the information belongs to a business entity or an individual acting in a business capacity;
- Such communications and information shall form part of Committee/Council agendas and be used to assist Council and Committee members with properly addressing and responding to individuals' requests or inquiries;
- Any communications presented to Council in public session shall be made available for public viewing by way of print and/or electronic means;
- Discretion pertaining to the disclosure of personal information may be exercised by the Township Clerk where the personal information relates to highly sensitive or confidential matters and/or relates to one of the designated criteria for a "closed" session;
- Where an individual has specifically expressed that the communication be treated as "confidential", the Clerk's Department shall contact the individual to request consent to disclose the communications in order to allow Council to deal with the matter.

Recreation Programs

The following shall be applied when dealing with Recreation Programs:

- personal and health information, collected for the purposes of parks and recreation programs, may be used by municipal staff and designated volunteers who are responsible for the organization and health & safety of the participants
- any photographs or images of program staff and participants shall be authorized **in advance** by designated municipal staff

Protecting Personal Information

Protecting the privacy of individuals and any personal information which has been collected and used by the Municipality is a requirement of privacy legislation and a primary focus of the Township of McGarry.

To ensure that every precaution is taken to protect the privacy of personal information, the following processes shall be adhered to:

- Access to personal information shall be restricted to 'only' those employees requiring access in order to carry out their duties.
- No personal information shall be disclosed to members of the public, Council or other staff without the consent of the individual to whom the information relates (except where permitted by legislation or within this policy).

- Personal information shall not be discussed in public areas where it may be overheard by others who are not otherwise authorized to have such information.
- Personal information should not be left exposed or visible on desks or computer screens. Staff should minimize computer screens and put records containing [third party] personal information away when not in use.
- Records/files containing personal information should not be removed from Township worksites. If it is necessary to have records leave the worksite, the records should be copied first. Originals should remain on-site at all times.
- Records/files leaving the worksite that contain personal information should be signed out. Sign-out cards/forms should include employee's name, description of records, file number and file name, date of removal and date of return and be kept within the department/location where the records were removed from.
- Sensitive personal or confidential information should, wherever possible, be sent by regular mail or courier. If transmitting such information by e-mail or fax, e-mail addresses and fax numbers must be verified to ensure that they are accurate prior to sending the information.
- Confidentiality and privacy statements shall be included on all e-mail and fax transmissions.
- Cabinets or storage locations containing personal or confidential information should be locked or secured at the end of each day and when not in use.

Members of the public seeking access to records which contain another individual's personal information must complete and submit a formal Access Request in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*.

POLICY ADMINISTRATION AND REVIEW

This policy shall be administered by the Township Clerk.

This policy will be reviewed every three (3) years or as required based on revisions to corporate practices or Provincial legislation.

Delegation & Dispute

The Township Clerk of the Corporation is delegated the responsibilities related to the dissemination of corporate records. Any dispute from the public regarding this policy shall be referred to the Township Clerk who shall make a determination regarding the issue.

APPENDIX "A"
Schedule of Records for Routine Disclosure and/or Active Dissemination

Type of Record	Notes / Conditions on Release of Records	Routine Disclosure (RD) or Active Dissemination (AD)
Accessibility Plan and Policies		AD
Agendas of Council, Committee of the Whole, Coordinated Committee and Advisory Committees	Excludes Closed Session Materials.	AD
Assessment Rolls	Ownership information can be viewed at the Municipal Office but is not provided over the phone to the public. Information is provided to government or law enforcement organizations upon request.	AD
Agreements and Contracts	Excludes draft agreements. Approved agreements are provided via the Council agenda when passed by By-law.	AD Approved Agreements RD Signed Agreements
Emergency Plan	Excludes confidential information contained within the plan.	AD
Emergency Service Calls/Reports	General statistics provided via the Council agenda. Reports may be provided to affected property owners insurance company upon request.	AD Statistics RD Reports
Employment Agreements and Contracts	Excludes draft agreements and individual employment contracts. Contracts and Agreements established collectively are provided.	RD

Type of Record	Notes / Conditions on Release of Records	Routine Disclosure (RD) or Active Dissemination (AD)
Facility Rental Contracts Audit Reports	Copies are provided to the signing parties.	AD AD
Bids and Tenders	Unofficial & Official Bid Results released on request and in public reports to Council as required. Public information, often announced publicly at bid or tender openings.	AD through Reports RD
Budgets	Operating and Capital	AD
Bylaws	Frequently requested regulatory By-laws are posted on the Township's website. By-laws under consideration to be passed are posted as part of the Council agenda for approval. Final signed copies can be made available upon request.	AD Regulatory and Proposed RD signed
Committee of Adjustment Notices and Decisions	Released in accordance with the Planning Act requirements	AD/RD
Corporate Policies and Procedures	Policies directly affecting the Public are available on the Township's website. All other policies can be made available upon request.	AD Public RD All others
Corporate structure / Organizational Charts		RD
Economic Development Statistics	Information on investing in McGarry, resources for businesses, real estate listing and reports	AD/RD

Type of Record	Notes / Conditions on Release of Records	Routine Disclosure (RD) or Active Dissemination (AD)
Employment and salary statistics	The Township's ladder chart and pay grid can be made available upon request. The specific salary of an individual staff member is not released, however the wage range for the position is. Councillor remuneration is made available upon request.	RD
Expenses - Councillor		RD
Expenses - Departmental	Provided as part of the Council Agenda.	AD
Freedom of Information Requests	Identity and/or any identifiable information of the requesters is not provided.	RD
Land – Sales and Acquisitions	General information provided in the required By-law after the transaction is complete	AD
Legal Proceedings – Outcomes and status reports	Excludes draft reports, draft decisions and any records subject to solicitor client privilege	RD
Licenses (Business)		AD
Maps	Excludes any maps subject to external copyright. General mapping already utilized for Township purposes are publicly available. Small fee may apply to reproduce maps.	AD General RD

Type of Record	Notes / Conditions on Release of Records	Routine Disclosure (RD) or Active Dissemination (AD)
Minutes of Council and Committees	Excludes Closed Session Minutes	AD
Permits (Building, Planning, etc.)	Permit application forms are released to property owner or their representative. Permit application forms with information of owner removed are released upon request.	RD
Planning Applications	Formal comments from internal departments or external agencies can be provided on request.	RD
Planning Policy Documents	Official Plan, Zoning By-law, etc. Related background information may be provided on request. Small fee may apply to reproduce copies.	AD
Plans and Drawings	As constructed building plans, construction specifics, site servicing, grading, subdivision plans etc. Records can be viewed on request. Copyright Act applies to some drawings and plans.	RD
Plans (site plans and related information)	Site Plans for institutional, commercial, industrial are released for viewing on request. Residential site plans are released to property owner or representative only. No correspondence with other members of the public to be released.	RD
Receipts	Payment receipts are provided to account holder.	RD

Type of Record	Notes / Conditions on Release of Records	Routine Disclosure (RD) or Active Dissemination (AD)
Reports <ul style="list-style-type: none"> - Staff Reports to Council and Committees - Building, Fire and Property Standards Inspections - Sewer or water main lateral condition inspections – residential - Animal Control Incidents - Incident / Accident - Playground, Sidewalk & Facility Inspections 	<ul style="list-style-type: none"> - Available publicly via the committee agenda - Photos and inspection reports released to property owner or representative only. Verbal confirmation of orders issued and the status of an investigation is provided on request. - Sewer or water main back-up inspection reports released to property owner or their representative. - Witness statement of incident provided to witness and pet owner. Personal information about witness to be removed from pet owner's copy. Animal Control officer's notes and report may be provided to parties involved. - Copies of reports can be provided to individual involved or parent/guardian if identity and relationship verified. Copies will be provided to municipal insurer on request. - Shared with municipal insurer as needed. Confirmation of inspections completed. 	<p>AD</p> <p>AD Owner RD</p> <p>RD</p> <p>RD</p> <p>RD</p> <p>RD</p> <p>RD</p>

Type of Record	Notes / Conditions on Release of Records	Routine Disclosure (RD) or Active Dissemination (AD)
Security Camera footage	Provided to law enforcement organizations in accordance with the Township's Video Surveillance Policy.	RD
Staffing	Human Resource policies, organizational reviews	RD
Taxes - Property (Statement of account)	Released to property owner or their representative. A small fee may apply.	RD
Tax Certificates and Municipal Records Search	A small fee applies	RD
Voters' List	Available for viewing during and immediately prior to the election. Not available at any other time. Copies are provided to candidates during election period for election purposes.	AD
Water - Annual Quality Reports		AD
Water & Sewer - Account	Released to property owner or their representative. A small fee may apply.	RD