



The Municipal Freedom of Information
and
Protection of Privacy Act
(MFIPPA)

Informational Guide
Legal & Legislative Services
2015

The Municipal Freedom of Information and Protection of Privacy Act

Informational Guide

Introduction

The Municipal Freedom of Information and Protection of Privacy Act (“the Act”, *MFIPPA*) came into effect on January 1, 1991. The Act provides a right of access to records held by the municipality subject to some limitations and exceptions. The Act also requires that municipalities protect the privacy of an individual’s government-held personal information while also providing a right of access to that information. The general right of access is limited, however, by certain exemptions set out in the Act. These exemptions are in place to protect both the needs of the institution and one’s right for privacy.

Individuals are encouraged to first request information informally by contacting the appropriate department since a fair amount of information is available through routine disclosure. If staff is unable to provide the information not routinely available, the legislation and its process may then apply. The Act also sets out a right of access to personal information relating specifically to oneself and the ability to correct that information if it is not accurate.

An individual may appeal the decisions of a municipality to the Information and Privacy Commission (IPC) and the appeal process is covered under the Act. The decision of the Commissioner is deemed final and binding.

• What is a Record?

A record is recorded information in any form. This includes paper, electronic documents, drawings, maps, tapes, photographs, videos, sound recordings, diagrams, graphic work, disks/CDs, microfiche and microfilm.



MFIPPA Procedure

Under the Act every person has a right of access to a record or part of a record in the custody or control of a municipal institution unless it falls within the exemption rules.

The municipality applies a Council-approved records retention schedule to its records, which establishes varying timeframes for retaining records. Once a record's retention has been met, it is destroyed. When a request is made, keep in mind the municipality may only have those records currently retained per the retention schedule.

• Request for Information - Application Process

Under MFIPPA, a request for information must be submitted to the Town of Fort Erie in writing or by completing an Access/Correction Request Application form available from Town Hall (or on the website www.town.forterie.ca). If acting on someone else's behalf, the requester must provide an original letter of authorization. Send or deliver the request to the attention of the MFIPPA Coordinator. Payment of the \$5.00 application fee must also accompany the request for information in the form of cash, cheque or interact payment.

The municipality has 30 calendar days to respond to a request. The release of information may be delayed beyond 30 calendar days if another party (third party) must be contacted, a fee estimate is required (which shall be provided to you in advance of the release of any records) or if the municipality requires more time to process a request due to its complexity or volume. Under any of these situations, the municipality will be in contact with the requester prior to the 30 calendar day time limit.

• Fees



A fee estimate is provided to the requester in cases where processing a request will cost over \$25.00. If the estimate is over \$100.00, the requester is required to pay 50% prior to the MFIPPA Coordinator proceeding with the request. In cases where the requester feels he or she is unable to cover the costs associated with the request, proof of financial hardship is required in the form of a bank statement or some other documentation indicating the requester's inability to meet the required payment amount.

The MFIPPA Coordinator may also consider waiving some or all of the fees based on:

- 1) Whether access would be granted to the record, and/or
- 2) The amount to be paid would be equal to or less than \$5.00.

The Act applies various fees apply to the processing and release of records as set out below:

- Application fee - \$5.00

- Manual search for records - \$7.50 per 15 minutes
- Developing a computer program - \$15.00 per 15 minutes
- Disk - \$10.00 per disk
- Photocopies - \$0.20 per page
- External costs (shipping, etc. if applicable) – as invoiced
- Preparing a record for disclosure - \$7.50 per 15 minutes

• Exemptions

When access to a record or part of a record is refused, the requester must be provided with the reason and the applicable section of the Act. The Act lists two types of exemptions:

1) Mandatory Exemptions – Unless there is a compelling interest to do so, the MFIPPA Coordinator is **required to refuse** access to a record if:

- Information relates to relations with or between government (in confidence), and/or
 - Third party information was supplied (in confidence), and/or
 - Record contains “personal information”.
- (Note: above is a sample of mandatory exemption examples)

“Personal information” - Recorded information about an individual which may include their name, address, sex, age, religion, telephone number, education, employment history, medical/psychiatric/criminal history, social assistance benefits, or financial information.

2) Discretionary Exemptions – The MFIPPA Coordinator may exercise judgment to sever some or all of a record if it contains one or more discretionary exemption. The MFIPPA Coordinator has the discretion to disclose a record despite grounds that may exist for one or more of the following exemptions:

- Draft by-laws, closed-meeting records
 - Recommendations or advice
 - Economic interests of a party
 - Law enforcement matters
 - Solicitor-client privilege
 - Published information (or soon-to-be published)
 - Danger to safety
 - Limitations on access to own personal information
- (Note: above is a sample of discretionary exemption examples)

When the municipality receives an access request for a record, the MFIPPA Coordinator may disclose the record subject to severing the information protected by the exemptions, where applicable. It should be noted, however, that a record may be disclosed in full if it is determined to be in the public’s best interest to do so, i.e. if not releasing the record would cause serious health or environmental hazards.

• Access to your own Personal Information

Individuals are entitled to ask for access to their own information. They may also request a correction to that information, place a statement of disagreement with the record if the correction was not permitted, and ask that anyone who received the information within the year the institution was notified that there is a correction or statement of disagreement attached to the record.

Appeal Process and Appeal Fees



MFIPPA includes the right to appeal a decision made by the municipality with regard to access or fees. Appeals must be filed with the IPC within 30 calendar days once a requester has been provided with a decision. Appeals must be filed in writing (or by using the Appeal Form available at www.ipc.on.ca) and must include the applicable fees (\$25.00 for access to general records, \$10.00 for access/correction of personal information).

Address: Information and Privacy Commission Ontario
2 Bloor Street East, Suite 1400
Toronto, ON M4W 1A8
Telephone: 1-800-387-0073 (within Ontario)
(416/local 905): 416-326-3333

Enquiries



Under the Act, the Mayor of the municipality is designated as the Head of the Institution. For the purposes of the Act, the responsibilities of the Head have been delegated to the Clerk/MFIPPA Coordinator as set out in By-law No. 241-90.

If you have any questions or comments about this brochure or the Municipal Freedom of Information and Protection of Privacy Act and its processes please contact:

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