



# ***CORPORATION OF THE CITY OF SUMMERSIDE***

**BYLAW NAME:** Access to Information and Protection of Personal Information Bylaw

**BYLAW #:** # CS-29

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**BE IT ENACTED** by the Council of the City of Summerside as follows:

## **1. Title**

- 1.1.** This Bylaw shall be known and cited as the “Access to Information and Protection of Personal Information Bylaw”.

## **2. Definitions**

**2.1.** In this Bylaw:

- (a) “Act” means the *Freedom of Information and Protection of Privacy Act*, RSPEI 1988, c F-15.01;
- (b) “Applicant” means a person who makes a request for access to a record under the Act or this bylaw;
- (c) “City” means the City of Summerside;
- (d) “Commissioner” means the Information and Privacy Commissioner appointed pursuant to the Act;
- (e) “Coordinator” means an Access to Information and Protection of Privacy Coordinator appointed by the Chief Administrative Officer pursuant to this bylaw; ;
- (f) “Council” means the Mayor and other members of the Council of the City of Summerside;
- (g) “development” means development as defined in the *Planning Act*, RSPEI 1988, c P-8;
- (h) “head” means the Chief Administrative Officer, appointed pursuant to the Act and this bylaw;
- (i) “law enforcement” means
  - i. policing, including criminal intelligence operations,
  - ii. a police, security or administrative investigation, including the complaint giving rise to the investigation, that leads or could lead to a penalty or

- sanction, including a penalty or sanction imposed by the body conducting the investigation or by another body to which the results of the investigation are referred, or
- iii. proceedings that lead or could lead to a penalty or sanction, including a penalty or sanction imposed by the body conducting the proceedings, or by another body to which the results of the proceedings are referred;
- (j) “personal information” means recorded information about an identifiable individual, including
- i. the individual’s name, or home or business telephone number, but not including their home or business address;
  - ii. the individual’s race, national or ethnic origin, colour or religious or political beliefs or associations,
  - iii. the individual’s age, sex, marital status or family status,
  - iv. an identifying number, symbol or other particular assigned to the individual,
  - v. the individual’s fingerprints, other biometric information, blood type, genetic information or inheritable characteristics,
  - vi. information about the individual’s health and health care history, including information about a physical or mental disability,
  - vii. information about the individual’s educational, financial, employment or criminal history, including criminal records where a pardon has been given,
  - viii. anyone else’s opinions about the individual, and
  - ix. the individual’s personal views or opinions, except if they are about someone else;
- (k) “record” means a record of information in any form, including electronic form, but does not include a mechanism or system for generating, sending, receiving, storing or otherwise processing information, or any type of record listed in subsection 4(1) of the Act;
- (l) “regulations” means the regulations passed pursuant to the Act;
- (m) “third party” means a person, a group of persons or an organization other than an applicant or the City.

### 3. Designation

- 3.1. The Chief Administrative Officer is the designated head of the City for the purposes of the Act, and shall have all of the powers, duties, and functions delegated to the head of a local public body under the Act.

## PART 1: ACCESS TO INFORMATION

### 4. Right of Access

- 4.1. An applicant has a right of access to any record in the custody or under the control of the City, except as provided in the Act and this bylaw.
- 4.2. The right of access to a record does not extend to information exempted from disclosure under the Act or this bylaw, but if that information can reasonably be severed from a record, an applicant has a right of access to the remainder of the record.
- 4.3. The City shall promptly make available for public inspection the following information:
- (a) current approved financial plans;
  - (b) current approved annual financial statements;
  - (c) audited financial reports;
  - (d) minutes of all meetings of the Council and Council committees;
  - (e) resolutions contained in the register referred to in clause 93(3)(i) of the *Municipal Government Act*, RSPEI 1988, c M-12.1;
  - (f) bylaws or proposed bylaws which have received first reading;
  - (g) all compensation, expenses and other payments made annually to each Council member for the previous fiscal year;
  - (h) all compensation, expenses and other payments made annually to Council committee members and all members of any boards or other bodies established by Council for the previous fiscal year;
  - (i) current strategic plans;
  - (j) all policies.

### 5. Coordinator

- 5.1. The Chief Administrative Officer shall appoint an Access to Information and Protection of Privacy Coordinator for the City.

- 5.2.** The Chief Administrative Officer may in writing delegate to the Coordinator any duty, power, or function of the head under the Act, except the power to delegate under this section, including:
- (a) accepting and processing applications for access to information;
  - (b) clarifying and responding to access to information applications, including deciding whether to grant or refuse the application for access to information;
  - (c) providing education and training to members of Council and employees of the City with respect to the bylaw and the Act as it applies to access to information and the protection of personal information;
  - (d) assisting municipal staff in conducting searches in response to access to information applications;
  - (e) preparing fee estimates; and
  - (f) providing a written annual report to the Council which includes, at a minimum,
    - i. the number of applications for access to information,
    - ii. the number of applications where access to information was granted, and
    - iii. the number of applications where access to information was denied.
- 5.3.** The following persons are not eligible to be appointed as the Coordinator for the City:
- (a) a person who is appointed or employed as the chief administrative officer of another municipality;
  - (b) a member of Council.

## **6. Applications for Access**

- 6.1.** Applications for access to information shall
- (a) be made by the applicant, in writing, to the Coordinator;
  - (b) provide sufficient detail to enable the Coordinator to identify the information sought, and
  - (c) indicate whether the applicant is requesting a photocopy of the information or to examine the information.
- 6.2.** The requirement in subsection 6.1 for an application to be in writing may be satisfied by an application in electronic format where the Coordinator consents to receiving the application by electronic means.
- 6.3.** Subsequent communications between an applicant and the Coordinator may be by electronic means where both the Coordinator and the applicant consent to communicate by that means.

## **7. Duties of Coordinator**

- 7.1.** Where an application for access to a record or information is received, the Coordinator shall, within 30 days of the application for access to information,
- (a) provide a response to an applicant's request which shall include the information required by section 10 of the Act;
  - (b) provide the applicant with a written estimate of any fees that may be charged for copies of the record or document containing the information; and
  - (c) subject to the Act and this bylaw, allow the applicant access to the information.
- 7.2.** Where, in the opinion of the Coordinator, the requested information cannot reasonably be accessed within 30 days of the date of receipt of the application, the Coordinator
- (a) may extend the time for responding to a request for up to 30 days or, with the Commissioner's permission, for a longer period in accordance with section 12 of the Act;
  - (b) shall inform the applicant, in writing, of the reason for the extension and when the information will be accessible; and
  - (c) shall provide the applicant with a written estimate of any fees that will be charged for copies of the record or document containing the information.

## **8. Exceptions to Disclosure**

- 8.1.** No person, other than a member of Council or staff of the City authorized by the Chief Administrative Officer in the performance of the person's duties, or the Commissioner, shall have the right to inspect or obtain a copy of any record containing:
- (a) matters the disclosure of which would be harmful to the business interests of a third party, in accordance with section 14 of the Act;
  - (b) personal information, if the disclosure would be an unreasonable invasion of a third party's personal privacy, in accordance with section 15 of the Act;
  - (c) information, including personal information about the applicant, if the disclosure could reasonably be expected to threaten anyone's safety or physical or mental health, or interfere with public safety, in accordance with section 16 of the Act;
  - (d) confidential evaluations, in accordance with section 17 of the Act;
  - (e) information the disclosure of which could reasonably be expected to interfere with law enforcement, in accordance with section 18 of the Act;
  - (f) information the disclosure of which could reasonably be expected to harm intergovernmental relations, in accordance with section 19 of the Act;

- (g) public body confidences, including the matters enumerated in subsection 119(1) of the *Municipal Government Act*, RSPEI 1988, c M-12.1, in accordance with section 21 of the Act;
- (h) advice from officials, in accordance with section 22 of the Act;
- (i) information the disclosure of which could reasonably be expected to harm the economic interests of a public body or the Government of Prince Edward Island, in accordance with section 23 of the Act;
- (j) testing or auditing procedures, where disclosure could reasonably be expected to prejudice the use or results of particular tests or audits, in accordance with section 24 of the Act;
- (k) privileged information, in accordance with section 25 of the Act;
- (l) information the disclosure of which could reasonably be expected to result in damage to or interfere with the conservation of defined archaeological sites or heritage places, and any rare, threatened, endangered or vulnerable life form, in accordance with section 26 of the Act;
- (m) information that is available for purchase by the public, that will be published or released within 60 days after the applicant's request is received, or that is otherwise readily available to the public, in accordance with section 27 of the Act.

**8.2.** The minutes of a closed meeting shall be made available to the public and shall be restricted to

- (a) the date of the meeting;
- (b) the type of matter under subsection 119(1) of the Act that was discussed during the meeting; and
- (c) who was present at the meeting.

## **9. Inspection of Records**

**9.1.** The inspection of records or documents containing the information requested shall be made under the supervision of an employee of the City.

**9.2.** Subject to section 10, copies of records or documents shall be provided by the City to an applicant, on request by the applicant, as

- (a) a photocopy of the record or document; or
- (b) an electronic version of the record or document, if available.

## **10. Fees**

- 10.1.** The Council hereby establishes a Fee Schedule setting out the maximum amount that the City may charge an applicant for services as provided for in the regulations.
- 10.2.** The fees established under subsection 10.1, do not apply to a request for the applicant's own personal information, except for the cost of producing a photocopy, if requested.
- 10.3.** The following provisions apply to all applications made under this bylaw:
- (a) all fees associated with the request for access to information shall be paid before the release of copies of the records or the documents containing the information;
  - (b) a deposit of 50 per cent of the estimated fees shall be paid to the City before any search for the information requested shall be commenced;
  - (c) an applicant may, in writing, request that the head excuse the applicant from paying all or part of a fee imposed under this section, and such requests shall be administered in accordance with subsections 76(3.1), (4), and (4.1) of the Act;
  - (d) in no case shall the fees levied under this bylaw exceed the actual cost of the services.
- 10.4.** The Fee Schedule to this bylaw is adopted and forms part of this bylaw.
- 10.5.** The fees set out in the Fee Schedule may be altered by simple resolution of Council.

## **11. Mandatory Disclosure**

- 11.1.** Whether or not a request for access is made, in accordance with section 30 of the Act the Chief Administrative Officer shall without delay disclose to the public or to specific members thereof information about a risk of significant harm to the environment or to the health or safety of anyone, and any other information the disclosure of which is clearly in the public interest.

## **PART II: PROTECTION OF PERSONAL INFORMATION**

### **12. Authority to Collect Information**

- 12.1.** No personal information may be collected by or for the City unless
- (a) the collection of that information is expressly authorized by or under an enactment of Prince Edward Island or Canada or a bylaw;
  - (b) the information relates directly to and is necessary for an operating program or activity of the City; or

- (c) the information is collected for the purposes of law enforcement.

### **13. Manners of Collection**

- 13.1.** Personal information shall be collected directly from the individual to whom it relates unless one of the circumstances enumerated in subsection 32(1) of the Act applies.

### **14. Right to be Informed**

- 14.1.** Where personal information is collected directly from an individual under section 12 or 13, the individual shall be informed of
- (a) the purpose for which the information is collected;
  - (b) the specific legal authority for the collection; and
  - (c) the contact information of an employee of the City who can answer the individual's questions about the collection.

### **15. Accuracy of Personal Information**

- 15.1.** Where an individual's personal information will be used by the City, the City shall
- (a) make every reasonable effort to ensure that the information is accurate and complete; and
  - (b) retain the personal information in accordance with the Records Retention Bylaw of the City.
- 15.2.** For greater certainty, a reference in this bylaw to the collection, use or disclosure of personal information by the City includes the collection, use or disclosure of the personal information by
- (a) an employee of the City;
  - (b) a volunteer, including a volunteer firefighter;
  - (c) a person appointed under subsection 217(2), 219(2) or 220(1) of the *Municipal Government Act*, RSPEI 1988, c M-12.1;

### **16. Right to Request Correction**

- 16.1.** An individual may request that the Coordinator correct personal information where the individual believes there is an error or omission in the individual's personal information.
- 16.2.** A request for a correction to personal information shall
- (a) be made in writing by the individual whose personal information it is, or by an authorized person on that individual's behalf; and
  - (b) provide sufficient detail to enable the Coordinator to identify the personal information that is the subject of the request.



- 16.3.** The requirement in subsection 16.2 for a request to be in writing may be satisfied by a request in electronic format where the Coordinator consents to receiving the request by electronic means, and subsequent communications between an individual making a request for correction and the Coordinator may be by electronic means where both the Coordinator and the individual consent to communicate by that means.
- 16.4.** The Coordinator shall not correct or otherwise alter an opinion included in an individual's personal information, including a professional or expert opinion.
- 16.5.** The Coordinator shall make the correction requested in accordance with the procedure specified in section 17 unless prohibited by law from doing so.

## **17. Record of Request to Correct Personal Information**

- 17.1.** Where,
- (a) a correction is made in response to a request under clause 16.1, the Coordinator shall make a notation either on the record or document in question or attached to it that a correction has been requested and made; or
  - (b) no correction is made in response to a request under clause 16.1, or a correction is prohibited under clause 16.4, the Coordinator shall make a notation that there was a request to make a correction to the individual's personal information either on the record or document in question or attached to it.
- 17.2.** Within 30 days after the request under clause 16.1 is received, the Coordinator shall give written notice to the individual that
- (a) the correction has been made under clause 17.1(a); or
  - (b) no correction has been made under clause 17.1(b).
- 17.3.** The Coordinator shall notify any third party to whom personal information has been disclosed within the preceding year that a request to correct that personal information has been made and the decision that was made in response to the request.
- 17.4.** Notwithstanding subsection 17.3, the Coordinator may dispense with notifying a third party as required in that subsection if
- (a) in the opinion of the Coordinator, the request to correct the personal information and the decision that was made is not material; and
  - (b) the individual who requested the correction is advised and agrees in writing that notification is not necessary.
- 17.5.** Where the personal information that is the subject of a request for correction was collected by another party or another party created the record or document containing the

personal information, the Coordinator may, within 15 days from receiving the request to correct the personal information under section 16, transfer the request to that party.

- 17.6.** Where a request is transferred under subsection 17.5, the Coordinator shall notify the individual of the transfer as soon as possible.

## **18. Security of Personal Information**

- 18.1.** The Chief Administrative Officer shall ensure that personal information is protected by making reasonable security arrangements to prevent unauthorized access, collection, use, disclosure, disposal or destruction.

## **19. Use of Personal Information**

- 19.1.** The City may use personal information only
- (a) for the purpose for which the information was collected or compiled or for a use consistent with that purpose;
  - (b) if the individual to whom the information pertains has identified the information and consented, in writing, to the use; or
  - (c) for a purpose for which that information may be disclosed by the City under sections 20 and 21 of this bylaw.
- 19.2.** The City may use personal information only to the extent necessary to enable the City to carry out its purpose in a reasonable manner.
- 19.3.** For greater certainty, a reference in this section and in sections 16, 19, and 20 of this bylaw to the collection, use or disclosure of personal information by the City includes the collection, use or disclosure of the personal information by an employee of the City.

## **20. Disclosure of Personal Information**

- 20.1.** The City may disclose personal information only
- (a) for the purpose of complying with the Act or the bylaw;
  - (b) for the purpose of complying with an enactment of Prince Edward Island or Canada;
  - (c) for the purpose for which the information was collected or compiled or for a use consistent with that purpose;
  - (d) if the individual the information is about has identified the information and consented, in writing, to the disclosure;
  - (e) for determining an individual's suitability or eligibility for a program or benefit, including determining if an individual remains eligible or suitable for a program or benefit that individual is already participating in;

- (f) if the information is necessary for the delivery of a program or service of the City;
- (g) for any purpose enumerated in Part II Division 2 of the Act;
- (h) for the purpose of managing or administering personnel of the City or to a representative of a bargaining agent who has been authorized, in writing, by the employee to whom the information pertains to make an inquiry; or
- (i) to a law enforcement agency in Canada to assist in an investigation
  - i. undertaken with a view to a law enforcement proceeding, or
  - ii. from which a law enforcement proceeding is likely to result.

**20.2.** The City may disclose personal information about an individual

- (a) when the information is available to the public;
- (b) if the information is of a type that is routinely disclosed in a business or professional context and the disclosure is
  - i. limited to the individual's name and business contact information, including business title, address, telephone number, facsimile number and email address, and
  - ii. does not reveal other personal information about the individual or personal information about another individual; or
- (c) if the Chief Administrative Officer believes, on reasonable grounds, that the disclosure will avert or minimize an imminent danger to the health or safety of any person.

**21. Use or Disclosure Consistent with Purpose**

**21.1.** For the purposes of clauses 19.1 (a) and 20.1(c), a use or disclosure of personal information is consistent with the purpose for which the personal information was collected or compiled if the use or disclosure

- (a) has a reasonable and direct connection to that purpose; and
- (b) is necessary for performing the statutory duties of, or for operating an authorized program of the City.

**22. Disclosure for Research or Statistical Purposes**

**22.1.** The City

- (a) may disclose personal information in an individually identifiable form for a research purpose, including statistical research, only if

- i. the research purpose cannot reasonably be accomplished unless that information is provided in individually identifiable form,
  - ii. the provision of information is not harmful to the individual the information is about and the benefits to be derived from the provision of information are clearly in the public interest,
  - iii. the Chief Administrative Officer has approved conditions relating to the following:
    - A. security and confidentiality,
    - B. the removal or destruction of individual identifiers at the earliest reasonable time, and
    - C. the prohibition of any subsequent use or disclosure of the information in individually identifiable form without the express authorization of the Council; and
- (b) the person to whom the information is disclosed has signed an agreement to comply with the approved conditions, the Act, the bylaw and any other bylaws, policies and procedures of the City relating to the confidentiality of personal information.

### **23. Disclosure of Personal Information to Applicant**

- 23.1.** The only personal information that the City shall disclose to an applicant in relation to a third party is information authorized to be disclosed under the Act or this bylaw.

### **24. Information Refusal where Threat to Health and/or Safety**

- 24.1.** The Coordinator may refuse to disclose to an applicant
- (a) information, including personal information about the applicant, if the disclosure could reasonably be expected to
    - i. threaten anyone else's safety or mental or physical health, or
    - ii. interfere with public safety;
  - (b) personal information about the applicant if, in the opinion of a physician, psychologist, psychiatrist or any other appropriate expert depending on the circumstances of the case, the disclosure could reasonably be expected to result in immediate and grave harm to the applicant's health or safety; and
  - (c) information in a record or document that reveals the identity of an individual who has provided information to the City in confidence about a threat to an individual's safety or mental or physical health.

## **25. Complaint and Review**

- 25.1.** A person who is dissatisfied with any decision, act or failure to act under this bylaw may ask the Commissioner to review the decision, act or failure to act in accordance with Part IV of the Act.

## **26. Effective Date**

- 26.1.** The *Access to Information and Protection of Personal Information Bylaw*, Bylaw #CS-29, as adopted on 17 February 2020, shall be repealed on the effective date of this bylaw.
- 26.2.** This *Access to Information and Protection of Personal Information Bylaw*, Bylaw #CS-29, shall be effective on the date of approval and adoption by Council.

**First Reading:**

This Bylaw, Bylaw# CS-29, was read a first time at the Council meeting held on the 17 day of May, 2021.

This Bylaw, Bylaw# CS-29, was approved by a majority of Council members present at the Council meeting held on the 17 day of May, 2021.

**Second Reading:**

This Bylaw, Bylaw# CS-29, was read a second time at the Council meeting held on the 21 day of June, 2021.

This Bylaw, Bylaw# CS-29, was approved by a majority of Council members present at the Council meeting held on the 21 day of June, 2021.

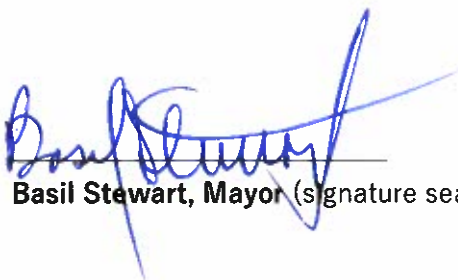
**Approval and Adoption by Council:**

This Bylaw, Bylaw# CS-29, was adopted by a majority of Council members present at the Council meeting held on the 21 day of June, 2021.

This Bylaw is declared to be passed on the 21 day of June, 2021.

**Signatures**



  
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**Basil Stewart, Mayor** (signature sealed)

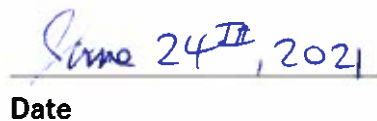
  
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**Rob Philpott, Chief Administrative Officer** (signature sealed)

This Bylaw adopted by the Council of the City of Summerside on the 21 day of June, 2021 is certified to be a true copy.

  
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**Rob Philpott, Chief Administrative Officer**

  
\_\_\_\_\_

**Date**



# CORPORATION OF THE CITY OF SUMMERSIDE

**SCHEDULE:** FEE SCHEDULE

**BYLAW NAME:** Access to Information and Protection of Personal Information

**BYLAW #:** # CS-29

## 1. Fees

- 1.1.** The Fees established pursuant to the bylaw for locating, retrieving, preparing, producing, and supervising the examination of information shall be in accordance with the amounts set out in the table below. The amount of the fees set out in this Schedule are the maximum amounts that can be charged to applicants. All applicable taxes are payable in addition to the listed fees.

SERVICE	FEE
Copying a record	
(a) Paper copy (photocopy or computer printout)	8 cents per page
(b) Duplication of 16mm microfilm	\$29.95 per roll
(c) Duplication of 35mm microfilm	\$32.95 per roll
(d) Duplication microfilm to paper	50 cents per exposure
(e) Photographs (colour or black and white from negatives)	
i. 5"x7"	\$9.00 per photograph
ii. 8"x10"	\$11.00 per photograph
iii. 11"x14"	\$25.00 per photograph
iv. 16"x20"	\$40.00 per photograph
v. 20"x24"	\$100.00 per photograph
	\$8.50 per slide

(f) Duplication of 35mm colour slide	Actual cost to the City
(g) Any other media not listed above	
Locating and retrieving a record, preparing and handling a record for disclosure, & supervising the examination of a record	\$15 per half hour
Shipping a record or a copy	Actual cost to the City
Producing a record from an electronic record	Actual cost to the City
(a) Computer processing and related charges,	
(b) Computer programming	

**1.2.** A deposit of 50 percent of the estimated fees shall be paid to the City before any search for the information requested shall be commenced, and all fees associated with the request for access to information shall be paid before the release of the copies of the records or the documents containing the information.