

Rural Municipality of Wawken No. 93

Policy No. 200-27 Access to Information

Effective April 13, 2023

Policy Objective:

To specify how the Municipality shall manage requests for information.

Authorization:

Resolution: 129/2023 Access to Information Policy

Objective:

The Rural Municipality of Wawken No. 93 recognizes the right of access by the public to information in the possession or under the control of the Municipality and is committed to fulfilling its obligations under *The Local Authority Freedom of Information and Protection of Privacy Act (LAFOIP)* and *The Local Authority Freedom of Information and Protection of Privacy Act Regulations*.

The purpose of this policy is to establish appropriate controls and guidelines around providing access to information as required to carry out the Municipality's statutory obligations pursuant to LAFOIP and the Municipality's legitimate business and public interest mandates, including the principles of open government of transparency, accountability, accessibility and participation.

Scope:

This policy applies to all employees, members of Council (outside of conducting constituency business or political activities) and contractors of the Municipality.

Definitions:

- a) "access to information request" means the formal process by which an individual may request access to the Municipality's information under the provisions of LAFOIP. Also referred to as a freedom of information request (FOI).
- b) "administrator" means the Administrator of the Municipality.
- c) "applicant" means any individual who requests access to a record under LAFOIP.
- d) "contractor" means an individual or company retained under a contract to perform services for the Municipality including any information management service providers.
- e) "control" means where the Municipality has the authority to manage the record including restricting, regulating and administering its use, disclosure or disposition.
- f) "duty to assist" means the Municipality's obligation to provide assistance to an applicant including responding to a request for access openly, accurately and completely.

g) “employee” means an individual employed by the Municipality, including an individual retained under a contract to perform services for the Municipality.

h) “exemption” means a mandatory or discretionary provision under LAFOIP that authorizes the Municipality to refuse to give access to information contained in a record, or, in some cases, to refuse to acknowledge the existence of a record in response to a request.

i) “formal request” means a request for access to information, made in writing or presented on the prescribed Access to Information Request Form “A” that states the applicant wishes to make application under LAFOIP.

j) “head” means the Reeve of the Municipality.

k) “informal request” means a request for information, which is general in nature, can be easily accessed in a minimal amount of time and can typically be handled by the department responsible for the information.

l) “information” means what a record contains. It is also a term used to refer to the content of an electronic database or application. Regardless of the form, all recorded information in the possession or under the control of the Municipality is a record.

m) “LAFOIP” means The Local Authority Freedom of Information and Protection of Privacy Act.

n) “personal information” means information about an identifiable individual of a personal nature which may include but is not limited to: information about an individual’s race; religion; family status; age; birthdate; place of origin; employment or criminal history; financial information; health services number; driver’s license number; social insurance number; home address, email address or telephone number; physical or mental condition of an individual; an individual’s personal views or opinions except where they are about another individual.

o) “possession” means physical possession plus a measure of control of the record.

p) “privacy” means the right to keep certain information private; freedom from unauthorized access to, use, or disclosure of one’s personal information.

q) “record” means a record of information in any form and includes information that is written, photographed, recorded, digitized or stored in any manner, but does not include computer programs or other mechanisms that produce records.

r) “third party” means a person or company other than the Municipality.

Background:

LAFOIP and *The Municipalities Act* determine the Municipality’s obligations to provide access to information in the Municipality’s possession or under its control. Every employee, member of Council and contractor with access to municipal information, as a result of their employment, elected position or contract with the Municipality, is responsible for managing that information in accordance with this policy.

LAFOIP defines the head, in the case of a municipality, as the Reeve, and authorizes this person to be responsible for receiving and responding to all access to information requests. However, Section 50 of

LAFOIP allows the head (Reeve) to delegate this responsibility to one or more officers or employees of the Municipality.

Resolution 128/2023 passed at a Council Meeting duly held on the 13th day of April 2023 provides for the delegation of responsibility from the Reeve to the Administrator for the purposes of receiving, managing and responding to all access to information requests of the Municipality.

Policy: +n

A. Access to Information

Pursuant to LAFOIP, an individual has the right to request access to any information in the possession or under the control of the Municipality. The Municipality has a duty to assist in providing as much information as possible to the applicant while ensuring personal, confidential and third party information is protected in accordance with LAFOIP.

B. Informal Requests

Informal requests are handled by the employee or person responsible for the information, in consultation with the Administrator as necessary. Informal requests will be responded to within a reasonable amount of time after receiving the request. Informal requests also include requests for municipal documents in which the Municipality is obligated to provide to any person under the authority of The Municipalities Act, which includes the following:

- a) Any employee code of conduct policy (111.1);
- b) Any contract approved by Council, any bylaw or resolution and any account paid by the Council relating to the Municipality (117);
- c) Council's public disclosure statements (142) and the debentures register (175(1));
- d) Official oath of office taken by members of Council (94);
- e) Annual financial statements (185) and the auditor's report (189(1));
- f) Any report of any consultant engaged by or of any employee of the Municipality, or of any committee or other body established by the Council, after the report has been submitted to the Council, except any opinion or report of a lawyer (117);
- g) The minutes of the Council after they have been approved by the Council (117); and
- h) Any other municipal document as required by legislation.

Municipal documents listed above are subject to the restrictions within Part III Exemptions of LAFOIP for the protection of privacy. As such, the Administrator shall redact or otherwise refuse access to any information deemed to be confidential prior to supplying the requested documents.

Processing fees for informal requests shall be in accordance with any General Fee Bylaw so passed by the Council. However fees shall not exceed the reasonable costs incurred by the Municipality in furnishing the copies.

C. Formal Requests

Also referred to as: Freedom of Information Request (FOI) Access to Information Request

An applicant who wishes to make a formal request under LAFOIP must complete the legislated form, Access to Information Request Form A, or make a request by email or letter stating the request is being made under LAFOIP. Form A is available as an appendix to this policy as well as

on the website for the Office of the Saskatchewan Information and Privacy Commissioner (OIPC) (www.oipc.sk.ca).

The applicant is to send the FOI request confidentially to the Administrator. If an employee receives the formal access request, it should be forwarded to the Administrator. FOI requests are handled by the Administrator, confidentially and immediately on receipt. The name of the applicant should be kept confidential.

Processing Fees

As of the date of this Policy the applicable fees for FOI requests, as set by LAFOIP Regulations are as follows:

- a) Application fee \$20, due at time an application is made;
- b) \$.025 per photocopied or computer printout, when the applicant is provided with a copy of the record, or part of the record;
- c) Actual cost of any portable storage device provided to the applicant (e.g. USB stick);
- d) Actual cost of copying and providing a record in any other form;
- e) Where time in excess of one hour is spent searching for a record requested by an applicant or in preparing it for disclosure, a fee of \$15 for each half-hour or portion of a half-hour of that excess time is payable at the time when access is given;
- f) Where a search and retrieval of electronic data is required to give access to a record requested by an applicant, a fee equal to the actual cost of the search and retrieval, including machinery and operator costs, is payable at the time when access is given.

The Municipality will process the request with complete, accurate and timely responses in accordance with LAFOIP. The checklists attached as an appendix to this policy will be utilized as a transparent and thorough manner for processing formal requests.

Employees, members of Council and contractors are required to assist the Administrator as necessary in obtaining information as it relates to the access to information request in accordance with timelines legislated under LAFOIP. Formal requests for municipal documents are subject to the restrictions within Part III Exemptions of LAFOIP for the protection of privacy.

D. Duty to Assist

The Municipality has a duty to provide assistance to an applicant including to respond to a request for access openly, accurately and completely; to provide an explanation of any term, code or abbreviation used in the information, or to refer an applicant to a person who is able to supply an explanation if the Municipality is unable to do so.

E. Exemptions

LAFOIP provides for the protection of certain information. There are mandatory and discretionary provisions under LAFOIP authorizing the head (Administrator) to refuse to give access to information contained in a record including refusal to confirm or deny the existence of a record, in response to either an informal or formal request for information.

When determining whether to apply discretionary exemptions, the head (Administrator) will exercise good faith in balancing the legitimate business or legal concerns of the Municipality and the principles of open government.

F. Reviews

An applicant who is not satisfied with how the Municipality has processed an access to information request may apply to the OIPC for a review of the matter. The Municipality will cooperate with the OIPC in the conduct of the review. As well, the Municipality will work with the OIPC, the applicant, and any third parties to come to an acceptable review result, whenever possible.

The Administrator will determine whether to comply or not comply with any recommendations of the OIPC following a review, with regard for the requirements of LAFOIP, the public interest, mandate of the Municipality and the principles of open government.

If the applicant and/or third party are not satisfied with the head's (Administrator's) decision to comply or not comply with the recommendation of the OIPC, they can appeal that decision to the court.

G. Open government

The Municipality is committed to supporting the concepts of transparency, accountability, accessibility and participation and as such is committed to proactively providing information.

H. Roles and Responsibilities

The Administrator is responsible for:

- a) Corporate information, including personal information at the Municipality of residents and employees;
- b) Providing guidance with respect to this policy and ensuring this policy is followed;
- c) Receiving and managing all access to information requests including the application of all exemptions and working with the OIPC when a review is undertaken.

Employees, members of Council and Contractors are responsible for:

- a) Forwarding all access requests to the Administrator;
- b) Assisting with the search for responsive records;
- c) Compliance with this policy and related procedures and guidelines.

ACCESS TO INFORMATION REQUEST FORM FORM "A"

*The Local Authority Freedom of Information and Protection of Privacy Act
[Clause 6(1)(a)]*

Personal information and personal health information on this form is collected under *The Local Authority Freedom of Information and Protection of Privacy Act* and *The Health Information Protection Act* and will be used or disclosed only as necessary to respond to your request.

INFORMATION ABOUT YOU

Last Name

First Name

Name of Company or Organization (if applicable - optional)

Address

City

Province

Postal Code

Day Phone Number

Alternate Number

Fax Number

Email

INFORMATION ABOUT THE RECORDS YOU ARE REQUESTING

Are you requesting:

- ☐ your own personal information;
- ☐ personal information about someone other than yourself (*attach proof that you have authority to receive the information requested*);
- ☐ general information.

To which local authority are you making your request? *Enter the name of the local authority that you believe has the records you are requesting.*

What records do you wish to access? *Please provide a detailed description of the records you wish to access. This information will help locate the records.*

ACCESS TO INFORMATION REQUEST FORM FORM "A"

Pg. 2

What is the time period for the records you are requesting (if applicable)?

There is a processing fee of \$20 payable to the local authority. The person managing your request may contact you to seek clarification or to discuss aspects of the request, including the application of additional fees if necessary. You may request a waiver of the processing fee or additional fees, but may be required to provide evidence of substantial financial hardship (see Section 8 of LAFOIP Regulations).

Please keep a copy of this request for your records.

☐ Check if requesting waiver of processing fees:

I request that payment of the fees related to this request be waived because payment will cause me substantial financial hardship.

Details are as follows:

(Use additional pages as required)

Signature of Applicant

FOR OFFICE USE ONLY


Date Received

Application Number

30-Day Response Date

ACCESS TO INFORMATION REQUEST CHECKLIST

The below checklist will be utilized by the Administrator when processing a formal request for access to information (FOI), and is adapted from the Ministry of Justice, Access and Privacy Branch.


CALENDAR DAY	KEY TASKS	FOIP TIPS	
Day 1 (day after receipt)	<ul style="list-style-type: none"> Request received in government institution or local authority. Log the request. Set up a central FOIP office file. Provide heads up Start thinking about where responsive records might be. 	<ul style="list-style-type: none"> Make sure staff are aware of what an Access Request is, the urgency of the request, and where to immediately forward the request if received in their office. Heads up should protect the identity of the applicant and should be on a need to know basis. 	
30 calendar days to respond	Thirty-day clock starts	<ul style="list-style-type: none"> The thirty days start the day after the request is received in the government institution or local authority. For example, a request received November 1 is due December 1. 	
Day 2	<ul style="list-style-type: none"> Identify the area(s) of your government institution or local authority that may have responsive records and discuss the request with the area(s). 	<ul style="list-style-type: none"> Remind program/branch areas of the serious nature of access requests and that search efforts should include <u>all</u> responsive records. 	
	<ul style="list-style-type: none"> Identify if clarification from the applicant will be required to process the request. <div style="border: 1px solid black; background-color: yellow; padding: 5px; text-align: center; margin-top: 10px;"> Clock does not start until clarification is received </div>	<ul style="list-style-type: none"> If clarification is required, try to contact the applicant by telephone immediately. If unable to reach the applicant send a letter of clarification outlining the details required to process the request. 	
	<ul style="list-style-type: none"> Consider if request may need to be transferred to another government institution or local authority, in accordance with the Act. 	<ul style="list-style-type: none"> Transfers must occur within 15 days of receipt in your government institution or local authority. 	

Days 3 to 10	<ul style="list-style-type: none"> Finalize which program area(s) have responsive records. Program areas retrieve records and forward originals to FOIP Coordinator. Consider need for time extension if extensive records to be searched. Copy retrieved records and return originals to program area. 	<ul style="list-style-type: none"> Advise program areas to search for responsive records. Keep accurate and complete documentation of search on the Access Request file. 	
	<ul style="list-style-type: none"> Consider fees and send estimate if applicable with request for deposit. <div style="border: 1px solid black; background-color: yellow; padding: 5px; text-align: center; margin: 10px 0;"> Clock stops until fee deposit is received </div>	<ul style="list-style-type: none"> A cost estimate must be provided if the fees will exceed \$100.00. A government institution or local authority can require a deposit of up to 50% of the estimated fees prior to proceeding with work on the access request. 	
	<ul style="list-style-type: none"> Consider if consultations will be necessary (either internal or external). 		
	<ul style="list-style-type: none"> Consider need for third party consultation If applicable, send notices to third parties 	<ul style="list-style-type: none"> See the Access Request – Third Party Notification Checklist on Pg. 11 	
Days 10 – 11	<ul style="list-style-type: none"> Internal consultations 	<ul style="list-style-type: none"> Consult with program areas for context and sensitivity. 	
	<ul style="list-style-type: none"> External consultations 	<ul style="list-style-type: none"> Consult externally: for example, with government institutions or local authorities that have an interest in the records (if necessary). Determine if time extension will be necessary to complete external consultations. 	
Days 12 – 17	<ul style="list-style-type: none"> Detailed line-by-line review of records. Apply exemptions and quote necessary exemptions where there is severing. Incorporate results of internal and external consultations into review (ongoing) 	<ul style="list-style-type: none"> Continue consultation with program areas. Keep accurate and complete record of reasons for each exemption. Keep accurate records of time spent severing if fee estimate was issued. 	

Day 15	<ul style="list-style-type: none"> • <u>Last day</u> for transferring the request to another government institution or local authority. 	<ul style="list-style-type: none"> • If you are transferring the application, remember to provide a copy of the transfer letter to the government institution or local authority receiving the request. 	
Days 18 – 24	<ul style="list-style-type: none"> • FOIP coordinator reviews internal / external consultations. 	<ul style="list-style-type: none"> • Advise senior management and communications on significant issues. 	
Days 18 – 24 (Cont'd)	<ul style="list-style-type: none"> • Consider whether time extension is needed to deal with outstanding external consultations. 	<ul style="list-style-type: none"> • Ask those involved in consultation process to respond immediately to avoid a time extension. 	
	<ul style="list-style-type: none"> • Final analysis of internal and external consultations. • Seek comments/approvals from key individuals (senior management, communications) 	<ul style="list-style-type: none"> • Discuss any sensitive or major issue(s) with the Head or Access Officer (if one has been delegated) and/or senior management. 	
	<ul style="list-style-type: none"> • Make any changes requested by senior management and the Head or Access Officer (if one has been delegated). • Prepare records for delivery to applicant. • FOIP Coordinator provides the Head or Access Officer with recommendations to finalize request. 		
Days 25 - 27	<ul style="list-style-type: none"> • Finalize fee if necessary, to incorporate into final letter to applicant. • Records are not provided until all fees are paid. 	<ul style="list-style-type: none"> • The fees cannot exceed the original estimate but must be found in favor of the applicant if they are less than the original estimate. 	
Day 30	<ul style="list-style-type: none"> • Send final response letter to applicant with records (unless access is fully denied). • Close file and maintain in central FOIP office. 	<ul style="list-style-type: none"> • Ensure all correspondence and documentation has been included in the file. 	

ACCESS REQUEST – THIRD PARTY NOTIFICATION CHECKLIST

Where it is determined that third-party notification is required, the following checklist will apply, as adapted from the Ministry of Justice, Access and Privacy Branch.

CALENDAR DAY	KEY TASKS	FOIP TIPS	
Day 1	<ul style="list-style-type: none"> Notification to third parties (as described in section 19(1) or 29(2)(o) of the Act. Depending upon where the time is at in the initial 30 days, give thought to whether an extension letter to the applicant will be required. 	<ul style="list-style-type: none"> Third party notification must commence within the initial 30 days. Notification should include the that an access request has been received and the intention to release the information; A description of the record which affects the third party (or copy where appropriate); and Provisions for the third party to make representations within 20 days of the letter. 	
Day 2 – 20	<ul style="list-style-type: none"> Continue on with other tasks that need to be completed for the access request. 	<ul style="list-style-type: none"> Refer to above Access Request Checklist to review activities that should be proceeding. 	
	<ul style="list-style-type: none"> Determine if extension notification will be necessary due to third party consultations. 	<ul style="list-style-type: none"> Send extension letter if third party notification process will go beyond the initial 30 day response time. 	
Day 20	<ul style="list-style-type: none"> Ensure that any submissions from affected third parties have been received and if not verbally follow-up with third party. 	<ul style="list-style-type: none"> Remind them of the timeframes you are legislated by to respond to the applicant. 	
Day 21 – 27	<ul style="list-style-type: none"> Based upon third party representations, decide if access will be provided or not to the applicant. 		

<p>Day 27 - 30</p>	<ul style="list-style-type: none"> • Draft decision letter to the applicant and the third party which includes what the decision of the Access Officer will be; • provides the third party and the applicant the right to request a review to the Information and Privacy Commissioner within 20 days of the notification; and • where access will be granted, advises the third party that access will be given once the 20 days expires unless the third party requests a review. 	<ul style="list-style-type: none"> • If you do not hear from the third party or the Information and Privacy Commissioner within the 20 days, a best practice is to follow up with the third party to ensure they are not exercising their right to request a review <u>prior</u> to granting access to the applicant. 	
<p>Day 40</p>	<p>Review by Applicant/Third Party</p> <ul style="list-style-type: none"> • The formal review process commences. <div data-bbox="480 831 876 995" style="border: 1px solid black; border-radius: 10px; padding: 10px; text-align: center;"> <p>Application stops until review process is complete.</p> </div>	<ul style="list-style-type: none"> • See section 49 of the Act regarding review process. 	
<p>Day 40</p>	<p>No review to the Commissioner by the Applicant or third party</p> <ul style="list-style-type: none"> • Finalize the request and send correspondence to the applicant. • Close file 		