

**SUMMER VILLAGE OF HORSESHOE BAY  
PROVINCE OF ALBERTA**

**BY-LAW NO. 54/99**

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**A Bylaw of the Summer Village of Horseshoe Bay in the Province of Alberta, to Regulate the Provision of Information and to Establish Information.**

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**WHEREAS**, in accordance with the Municipal Government Act, S.A. 1994, Chapter M-26.1, as amended; and the Freedom of Information and Protection of Privacy Act, S.A. 1994, F-18.5, an Applicant has the right to access their own personal information and other municipal records, unless there is reason why the information should not be disclosed; and

**WHEREAS**, in accordance with the said Act, upon request of any person, information in the possession of the municipality must be provided within a reasonable time and on payment of a reasonable fee established by By-Law; and

**WHEREAS**, in accordance with the said Act, a written appeal may be made to the Summer Village Council;

**NOW THEREFORE**, the Council of the Summer Village of Horseshoe Bay in the Province of Alberta, duly assembled, hereby enacts as follows:

**PART I: BY-LAW TITLE**

1. This By-Law shall be known as the "Access to Information" By-Law.

**PART II: PURPOSE OF BY-LAW**

1. The purpose of this By-Law is to facilitate access to information in the possession of the Summer Village and to ensure personal information is protected from unauthorized collection, use or disclosure. Schedule E outlines the process of requesting access to information and is attached hereto.
2. The Summer Village acknowledges that
  - a) information has value and can also be a marketable asset managed by the Summer Village; and
  - b) it is the responsibility of the Summer Village, to consider provision of information routinely requested via Active Dissemination or Routine Disclosure
  - c) it is the responsibility of the Summer Village, through its employees, to respond to persons requesting information as quickly and conveniently as possible, unless there are clear and reasonable grounds to withhold the information based on the Record classification.

**PART III: DEFINITIONS**

Active

Dissemination: routine disclosure of information by the municipality in bulk quantities. Records the Summer Village provides for the public on a regular basis.

- Appeal:** the process available to an Applicant when information requested is not provided or refused or rejected. See the section on Appeals.
- Applicant:** the individual making a request for information in accordance with this By-Law.
- Village Administrator:** the Summer Village of Horseshoe Bay Village Administrator as appointed pursuant to the Municipal Government Act.
- Summer Village:** the Municipal Corporation of the Summer Village of Horseshoe Bay.
- Council:** the Council of Summer Village of Horseshoe Bay
- Error:** mistaken or wrong information, or information not reflecting the truth.
- Exempt Information:** as defined in PART VII of this By-Law.
- Formal Request:** see 'requests'
- Freedom of Information and Privacy Co-ordinator:** is the Village Administrator for the purposes of the Freedom of Information and Protection of Privacy Act (pursuant to Section 89).
- Informal Request:** see 'requests'
- Master System Plan:** the approved Summer Village records classification manual, outlining primaries, scope, codes, riders, retention periods, access and final disposition.
- Omission:** information in a Record which is incomplete or missing or has been overlooked.
- Record:** information recorded in any form, including books, documents, maps, drawings, photographs, letters, vouchers and papers, and any other information that is written, photographed, recorded or stored in any manner, but does not include software or any other mechanism that produces records, except as this term may otherwise be defined in the Freedom of Information and Protection of Privacy Act from time to time.
- Refusal:** an information request which is refused by the Summer Village as a consequence of failure to meet the technical requirements as set out in this By-Law.
- Rejection:** an information request which is rejected for one of the reasons permitted for rejection in this By-Law as determined by the **Freedom of Information and Privacy Coordinator**.

Requests: **Formal Requests** relate to information not routinely provided. These types of requests require the completion of a 'Request for Access to Information' form, prior to release of the information.

**Informal Requests** are requests for information which the municipality routinely discloses or provides **via Active Dissemination**. Informal requests do not require the completion of a 'Request for Access to Information' form.

Routine Disclosure: release of specific information on a regular basis, without the requirement of completion of a 'Request for Access to Information' form.

#### Third Party Information

Requests: a request for information relating to a person, group of persons, or an organization other than the Applicant of the Summer Village. This information may directly impact, involve, or belong to the originating party, and cannot be released without the originating party's permission.

### **PART IV: RIGHT TO INFORMATION**

1. On request pursuant to Part V of this By-Law, provided the Applicant pays the applicable fees as set out in the Fees and Charges By-Law, each Applicant has a right to:
  - a) access a **Record** that is in the possession of the Summer Village
  - b) view a **Record** in the possession of the Summer Village;
  - c) request copies of a **Record** that is in the possession of the Summer Village;
  - d) request corrections to personal information maintained by the Summer Village; and
  - e) receive a copy of a **Record** maintained by the Summer Village in a format that is reasonably available, unless the **Record is Exempt Information** pursuant to this By-Law.

### **PART V: REQUESTS**

1. There are various types of requests regarding information and depending on the request, there are various forms that may be required.
  - a) If the requested information may be obtained by Informal Request, any individual may request information by telephoning, writing or by visiting (in person), the department, office or organization where the Record is kept, and sufficient detail must be provided in the description to identify the Record required.
  - b) If the requested information must be obtained by Formal Request or, if the Summer Village must determine if the requested information may be obtained by Formal Request or Informal Request or to enable the Summer Village to provide an estimate of the fees which will be required to obtain the Record, an Applicant will be required to complete a 'Request to Access to Information' form as prescribed in Schedule A.

- c) Any Applicant has the right to request information relating to a person, group or organization other than the Applicant or the Summer Village by completing a 'Request for Third Party Information' form as prescribed in Schedule C.
  - d) Any Applicant who believes there is an Error or Omission in their own personal information held by the Summer Village, may request a change to the personal information by completion a 'Request for Correction of Personal Information' form as prescribed in Schedule B.
2. All formal requests to access **Records** held by the Summer Village, will be identified and tracked by the Summer Villages' **Freedom of Information and Privacy Coordinator**, and will be responded to within 30 days of receipt of the request.
3. Any questions or concerns regarding the release or access to information held by the Summer Village or, an agent acting on behalf of the Summer Village, or completion of a request form, may be directed to the Summer Village's **Freedom of Information and Privacy Coordinator**.

#### **PART VI: RESPONSE TO REQUESTS**

1. The **Freedom of Information and Privacy Coordinator** or Village Council Members may be receive a request for information. That appointed Council Member shall determine if the request is an **Informal** or **Formal Request** as these terms are defined in this By-Law. If the appointed Village Council Member determines that the request for information is a **Formal Request**, then the appointed Village Council Member shall require the Applicant to complete a **Request for Access to Information Form** as prescribed in Schedule A.
2. Provided the Record requested is not for Exempt Information, if the Village Council member is able to access the Record, within 30 days the Applicant will be:
  - a) provided with a written estimate of any fees that will be charged;
  - b) allowed to view the Record; and
  - c) if the Record is reasonably capable of being copied, provided with a copy of the Record requested, subject to payment of the applicable fee.
3. If the requested Record cannot reasonably be accessed within 30 days of the date of receipt of the request, the Applicant must be told where, when and how a copy of the Record will be provided.
4. Pursuant to section 13(1) of the Freedom of Information and Protection of Privacy Act, the head of a public body may extend the time for responding to a request up to 30 days or, with the Freedom of Information and Protection of Privacy Commissioner's permission for a longer period.
5. If the application is refused or rejected, the Summer Village shall provide the Applicant:
  - a) written notice as to the reasons for the **Refusal** or **Rejection** and the provision on which the **Refusal is based**.
  - b) An explanation of the appeal process.
  - c) The name, title, business address and business telephone number of an office of the Summer Village who can answer any questions the Applicant may have about the **Refusal**.

Notwithstanding the foregoing the Freedom of Information and Privacy Coordinator may refuse to confirm or deny the existence of a Record containing information described in Section 17 or Section 19 of the Freedom of Information and Protection of Privacy Act or a Record containing personal information about a third party if disclosing the existence of the information would be an unreasonable invasion of the third party's personal privacy.

6. The Summer Village must respond in writing within 30 days of receiving a 'Request for Correction of Personal Information' form stating:
  - a) a correction has been made; or
  - b) an annotation or linkage has been attached to the information linking the information with the correction that was requested and not made.
  
7. Applications may be:
  - a) refused on the basis that:
    - (i) the request did not meet the technical requirements as set out in this By-Law
  - b) rejected if:
    - (i) the completed form or request was illegible;
    - (ii) the information requested is Exempt Information;
    - (iii) the request was considered vexatious or frivolous; or
    - (iv) for any other reason provided for in the Freedom of Information and Protection of Privacy Act.
  
8. At any time, if information requested is scheduled for destruction, the Village Administrator, must delay the destruction of that information, until such time as;
  - a) the request has been granted;
  - b) the time for appeal under this By-Law has expired; or
  - c) any appeal or review permitted pursuant to this By-Law or the Freedom of Information and Protection of Privacy Act is refused or rejected.

## **PART VII: EXEMPT INFORMATION**

1. Exempt Information is information
  - a) which may:
    - (i) be an unreasonable invasion of personal privacy
    - (ii) cause financial harm;
    - (iii) threaten anyone else's safety or mental or physical health;
    - (iv) interfere with public safety; or
    - (v) harm law enforcement efforts.
  - b) which is otherwise information which the **Freedom of Information and Privacy Coordinator** may refuse or be required to refuse to disclose pursuant to the provisions of the Freedom of Information and Protection of Privacy Act.
  
2. Advice or information given and deliberations or directions made at a private meeting of Council, or a private meeting of a Council Committee, draft reports, draft resolutions or draft By-Laws or other legal instruments unless they have been considered at a Council or Committee meeting open to the public or unless the **Record** has been in existence for fifteen (15) years or more, are **Exempt Information**.

3. Information about assessments and taxes is Exempt Information, unless disclosure of such information is required or permitted under the Freedom of Information and Protection of Privacy Act or any other statute.

### **PART VIII: APPEALS**

1. An Applicant may appeal to Council from a **Refusal** to provide a **Record** or a Rejection of an application by serving the Village Administrator a written notice in the form prescribed in Schedule D, attached hereto:
  - a) within 15 days of receiving a written notice of delay, **Refusal** or **Rejection** of the application; or
  - b) within 60 days of requesting the Record if no written notice of delay, **Refusal** or **Rejection** is received.
2. Grounds for an appeal are:
  - a) that the released **Record** was not complete; or
  - b) that the **Record** was withheld without reason being stated; or
  - c) that the reason for withholding the **Record** was insufficient or wrong.
3. Council may only consider an appeal if:
  - a) the persons to whom the information relates and the persons who would be affected by the release of the information have been notified; or
  - b) all possible attempts have been made to notify the Applicants of the appeal.
4. Appeals filed that meet the requirements of this section, will be heard at a regularly scheduled meeting of Council within 60 days after receipt by the Summer Village.
5. Any Applicant filing an appeal will be notified of the hearing, and may be asked to make a presentation or to respond to questions from Council.
6. If an individual who receives notice of the hearing cannot attend, they may authorize, in writing, some else as agent to attend on their behalf.
7. Council may decide to hear presentations and ask questions of each presenter separately and in private.
8. Council may proceed with the hearing in the absence of the Applicant or any other person who has received notice of the hearing if Council determines that all reasonable attempts have been made by the Summer Village to notify the Applicant or any other individual of the hearing.

### **PART IX: DECISIONS OF COUNCIL**

1. At the appeal hearing, Council may:
  - a) hear the Applicant and any other person that Council determines has relevant information for the hearing; and
  - b) determine that all or part of the **Record** requested shall be made available, and in what format; and
  - c) permit the designated office a further 30 days to make the **Record** available; or

- d) determine that the **Record** shall not be disclosed; or
  - e) make any other decision that it considers reasonable and justifiable in the circumstances, including refund of appeal fees.
2. Subject to the right to review by the Commissioner as set out in Freedom of Information and Protection of Privacy Act, Council's decision is final, and shall be written in the official minutes of the meeting. The decision shall be available from the office of the Summer Village within 30 working days after the hearing is completed.

**PART X: FEES**

1. Administrative fees as established in the "Fees and Charges By-Law", shall be charged before an Applicant is entitled to receive the requested information.

THIS By-Law shall come into force and effect upon the date of the passing of the Third and Final Reading and signing thereof.

Read a first time in Council this \_\_\_\_ day of , A.D. 1999.

Read a second time in Council this \_\_\_\_ day of, A.D. 1999.

Read a third time in Council and passed this \_\_\_\_ day of, A.D. 1999.

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Gene Gagnon  
Mayor

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Dave Lashuk  
Administrator