


# RESORT VILLAGE OF KIVIMAA-MOONLIGHT BAY

<b>POLICY TITLE</b>  <p style="text-align: center;"><b>2018-03</b>  <b>Local Authority Freedom of Information Policy</b>  <b>(LAFOIP)</b></p>		<b>ADOPTED BY</b>  <p style="text-align: center;">Council Resolution 185/18</p>	
<b>ORIGIN/AUTHORITY</b>  <p style="text-align: center;"><b>Resort Village Council</b></p>	<b>JURISDICTION</b>  <p style="text-align: center;">Resort Village of Kivimaa-Moonlight Bay</p>	<b>EFFECTIVE DATE:</b>  <p style="text-align: center;">December 18, 2018</p>	<b>PAGE # 1 of</b>  <p style="text-align: center;">10</p>

Revision Date: October 18, 2021

## 1.0 PURPOSE

- 1.1 The purpose of this policy is to outline the procedures regarding requests for access to records under the control of the Resort Village of Kivimaa-Moonlight Bay.
- 1.2 This policy states that:
- a) All records within the municipality are accessible to the public through certain procedures, as per either Local Authority Freedom of Information and Protection of Privacy Act (LAFOIP) and/ or Access to Information Act with the Privacy Act, in which are Federal Acts.
  - b) All records within the municipality are accessible to the public with schedule of fee's from the Local Authority Freedom of Information Regulations and Protection of Privacy Regulations (LAFOIP-Regs)
  - c) The Municipality has the responsibility to provide access to public records while maintaining the anonymity of ratepayers.
  - d) This policy provides a formal request process for information that is not available through routine channels. Most requests for information should be satisfied through routine channels. A request under the legislation should be the avenue of last resort.
  - e) In determining what information should be routinely released, consideration should be given to whether the provisions of this Policy dealing with a formal request under the legislation would result in the release of the information.
- 1.3 Definitions:
- a) **"Act"** shall refer to *The Freedom of Information and Protection of Privacy Act, Chapter L27.1 of the Statutes of Saskatchewan 1990-91;*
  - b) **"Active dissemination"** occurs when information or records are periodically released, without any request, under a program or release strategy, or general procedure or policy of the Municipality;

- c) **“Applicant”** means a person who makes an application for access to a record pursuant to section 6 of The Act.
  
- d) **“Commissioner”** means the Information and Privacy Commissioner appointed pursuant to *The Freedom of Information and Protection of Privacy Act*;
  
- e) **“Custody and control”** include situations where the business records of a third party are stored on the premises of the Municipality and those stored off-site where the Municipality has responsibility for the records.
  
- f) **“Employee”** means an individual employed by a local authority and includes an individual retained under a contract to perform services for the local authority;
  
- g) **“Fiscal Year”** means the period commencing on April 1 in one year and ending on March 31 in the following year;
  
- h) **“Government Institution”** means a government institution as defined in *The Freedom of Information and Protection of Privacy Act*;
  
- i) **“Head”** means:
  - i. in the case of a municipality, the mayor, reeve or chairperson of the local advisory committee, as the case may be;
  - ii. in the case of a police service, the chief as defined in The Police Act, 1990; or iii. in the case of any other local authority:
    - A. the chairperson of the governing body of the local authority; or
    - B. the individual designated as the head by the governing body of the local authority;
  
- j) **“Information Management Service Provider”** means a person who or body that:
  - i. processes, stores, archives or destroys records of a local authority containing personal information; or;
  - ii. provides information management or information technology services to a local authority with respect to records of the local authority containing personal information;
  
- k) **“Local Authority”** means:
  - i. a municipality;
  - ii. a committee of a council of a municipality; iii. any board, commission or other body that:
    - A. receives more than 50% of its annual budget from the Government of Saskatchewan or a government institution; and B. is prescribed;
  
- l) **“Minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
  
- m) **“Personal Information”** means personal information within the meaning of section 23;

- n) **“Prescribed”** means prescribed in the regulations;
- o) **“Physical possession”** are considered records that are under the control of the Municipality when the Municipality has the authority to manage the record throughout its life cycle including restricting, regulating and administering its use or disclosure.
  - i. Physical possession of a record by the Municipality normally constitutes custody.
- p) **“record”** means a record of information in any form and includes information that is written, photographed, recorded or stored in any manner, but does not include computer programs or other mechanisms that produce records;
- q) **“Routine disclosure”** occurs when access to a record can be granted without a request under the LAFOIP policy.
- r) **“Third Party”** means a person, including an unincorporated entity, other than an applicant or a local authority.

## 2.0 IMPLEMENTATION

2.1 This policy shall not be superseded by the Act and shall provide additional procedures regarding municipal operations to ensure appropriate execution.

### Criteria to Designate a Routine Disclosure Request

2.2 The criteria used to determine which records could be classified for routine release is:

- a) A statutory requirement.
- b) Type of information is requested on a regular basis.
- c) Material that is publicly available.
- d) No FOIP Act exceptions apply to the records.

2.3 A yearly review of our records holdings and of the types of requests for information being made by the Municipality will be conducted to determine whether the request for information can be met in the future through either routine disclosure or active dissemination.

### Routine Disclosure Request Process

2.4 When a written or verbal request is received for information that has been identified as routinely available, simply provide a response to the applicant and if applicable, apply the fees and charges schedule.

2.5 Individuals have a right to information about themselves, subject to limited and specific exceptions set out in the Act. The public body must, when providing disclosure of personal information:

- a) Verify the identity of the person to whom the information is disclosed; and
- b) Ensure that any person exercising the rights of an individual under the Act provide appropriate written evidence of his or her right to exercise that individual's rights under the Act. (E.g. court order of guardianship AND authorization of the guardian.)
- c) The individual's own lawyer, acting on the individual's behalf, with signed authorization from the individual (not opposing lawyers, and not lawyers for other insurance companies) can access any information which the individual could access.

2.5 If the document states that the request is made under the FOIP Legislation;

- a) Advise the applicant that the information they are seeking is available through routine channels

- (therefore does not require a request to be made under the Act);
- b) Explain that the request has been forwarded to the relevant department and the applicant will be contacted regarding the request;
- c) Give the FOIP Coordinators name, address, and telephone number so the applicant can contact this individual directly if preferred; and
- d) Copy the department, for information and follow-up action.

**Active Dissemination of Records**

2.6 The Internet will be used to regularly make available information, such as Approved Council Minutes and By-Laws. Other methods will include mail, faxes, newspaper and public reading room.

2.7 Records that are considered as Active Dissemination include:

- |   |  |
|---|--|
| a) Advertisements                       | aa) Inspection Reports – without name          |
| b) Advisory Committee Minutes –Approved | bb) Insurance Policies                         |
| c) Annual Report                        | cc) Job Descriptions                           |
| d) Approved Policies                    | dd) Leases                                     |
| e) Area Structure Plan – Approved       | ee) Listing of Development Permits             |
| f) Arrears in taxes – By property       | ff) Official Community Plan – Final            |
| g) Assessment Roll – Audit Statement    | gg) Organizational Charts with name & position |
| h) Award Recipients                     | hh) Pay Grades for Employees                   |
| i) Benefits Package                     | ii) Petitions (with names & addresses)         |
| j) Budget Summary Photos                | jj) Program Information                        |
| k) Budgets                              | kk) Property Assessment Values                 |
| l) Building Statistics                  | ll) Property Rolls without names               |
| m) Business Plan - Adopted              | mm) Property Searches                          |
| n) By-Laws - Passed                     | nn) Public Events                              |
| o) Committee Membership Lists           | oo) Public Hearings                            |
| p) Compliance Certificate – No Name     | pp) Publications                               |
| q) Convention/Seminar/Workshop          | qq) Retention of records – schedules           |
| r) Council Minutes - Approved           | rr) Right-of-ways                              |
| s) Current Rates/Charges                | ss) Street and Road Naming                     |
| t) Demographic Data – Statistical       | tt) Tax Certificates by Legal Description      |
| u) Development Statistics               | uu) Tax Sale Notification                      |
| v) Disaster Plan                        | vv) Tax Sale of Property                       |
| w) Election Results                     |  |
| x) Newsletter                           |  |
| y) Equipment Rates                      |  |
| z) Expense Claim Form                   |  |

## Records Covered by LAFOIP Policy

- 2.8 This policy defines the following records available for access:
- a) Books, documents, letters, vouchers and papers and any other information that is written; b) Maps, drawings, photographs;
  - c) Photographed, recorded or stored in any manner, but does not include software or any mechanism that produces;
  - d) Electronic records, personal filing systems and items such as working papers and post-it notes. The definition is intended to cover all sorts of recorded information created in carrying out the operations and activities of the Municipality such as e-mail, voice-mail and personal handwritten notes of employees.
- 2.9 This policy does not include the following records available for access:
- a) Records and materials referenced in Section 3 of the Act;
  - b) Software or any mechanism that produces records;
  - c) This Act binds the Crown.

## Procedures for Information Request

- 2.10 The applicant must make the request in writing, in the following fashion:
- a) Made in a letter or in any other written form.
  - b) State the Municipality for which the request is made.
  - c) Must mention the Freedom of Information Policy legislation.
  - d) Specify the subject matter of the record requested with enough specifics as to time, place and event to enable an individual familiar with the subject-matter to identify the record.
  - e) Sign an applicant declaration agreeing to pay all costs associated with the LAFOIP request at the fee schedule annexed to this policy.
- 2.11 Section 2.3 does not apply in the following situations:
- a) Individual is disabled;
  - b) Do not have the literacy capabilities;
  - c) Are otherwise unable to exercise their rights under regular procedures.
- 2.12 Where section 2.4 applies, the following procedure shall be followed:
- a) The request should be recorded in written form by the LAFOIP appointed representative.
  - b) A copy shall be sent to the applicant.
  - c) The applicant may use this document if they wish to appeal to the provincial privacy commission.
- 2.13 Where Council has been delegated as the LAFOIP Administrator, the Administrator shall bring forward the written request to Council for their consideration at the next regularly scheduled Council meeting.
- a) Council shall acknowledge the LAFOIP request and authorize the Administrator to locate and disperse the information within **30 calendar days** of the Council meeting.

## Timeframes

- 2.14 Once a formal request is received by the LAFOIP Administrator, the Municipality has **30 calendar - not working - days** to respond. Within this period:
- a) The requests must be reviewed;

- b) Records found;
  - c) Records reviewed;
  - d) Either access provided, or an initial response made to the applicant indicating an extension of time to respond to the request.
- 2.15 Timeframes can be extended for another 30-day term, with consent of the provincial privacy commission.
- 2.16 The Municipality shall provide a written response as per Section 5.1 of the Act.

### **Fees**

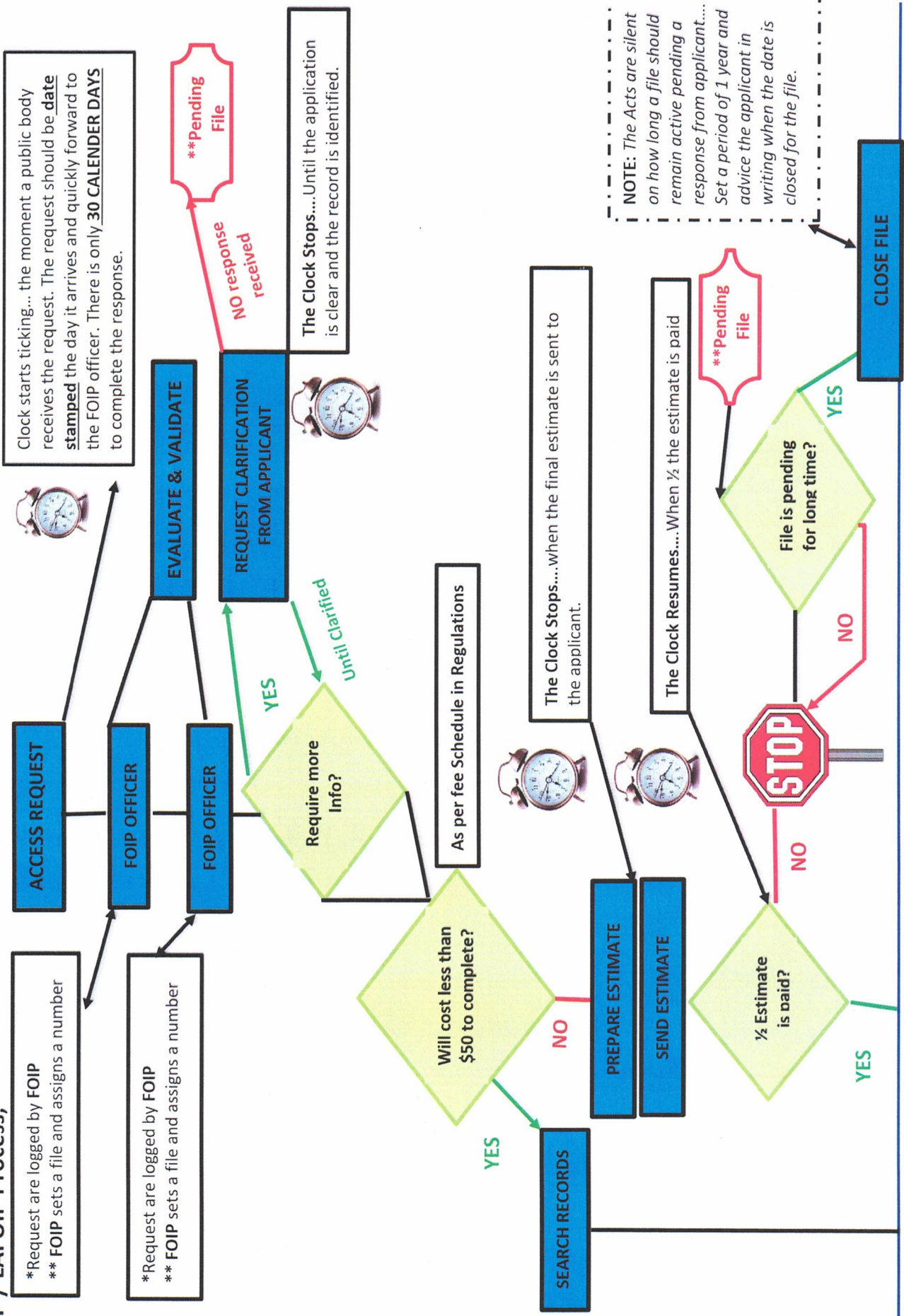
- 2.17 The Municipality shall charge the applicant the following fees when a LAFOIP request shall be as per the fee schedule listed in Appendix A.
- 2.18 The Municipality shall provide a formal invoice outlining all fees associated with the request, to be paid by the applicant.
- 2.19 The applicant shall sign a declaration agreeing to pay for all fees associated with the request within the time frame allowed for the LAFOIP request.
- 2.20 The Municipality retains the right to withhold release of the requested documentation until the invoiced fees have been paid by the applicant.
- 2.21 The Municipality may exercise its discretion and grant a fee waiver related to a request under the Act. In consideration of a request for a fee waiver the Municipality should ask for a submission in writing from the applicant to support a request for a fee waiver. The expectation is that fees will be waived only in limited circumstances having regard to all the factors.

### **Protection and Privacy of Personal Information**

- 2.22 The legislation requires that personal information be safeguarded and only released to others in certain situations specified in the Act. That personal information is, however, almost always releasable to the person to whom the information is about. Likewise, there are strict rules related to the collection of personal information under the Act.
- 2.23 The Municipality shall not release any names, phone numbers, addresses, or any identifying information to the applicant.
- a. Subject to the regulations, a Municipality shall establish policies and procedures to maintain administrative, technical and physical safeguards that:
    - i. protect the integrity, accuracy and confidentiality of the personal information in its possession or under its control;
    - ii. protect against any reasonably anticipated:
      - 1. threat or hazard to the security or integrity of the personal information in its possession or under its control;
      - 2. loss of the personal information in its possession or under its control; or
      - 3. unauthorized access to or use, disclosure or modification of the personal information in its possession or under its control; and
    - iii. otherwise ensure compliance with this Act by its employees
- 2.24 The Administrator shall black-out all personal information to ensure protection of parties included within the written correspondence that is not public information.

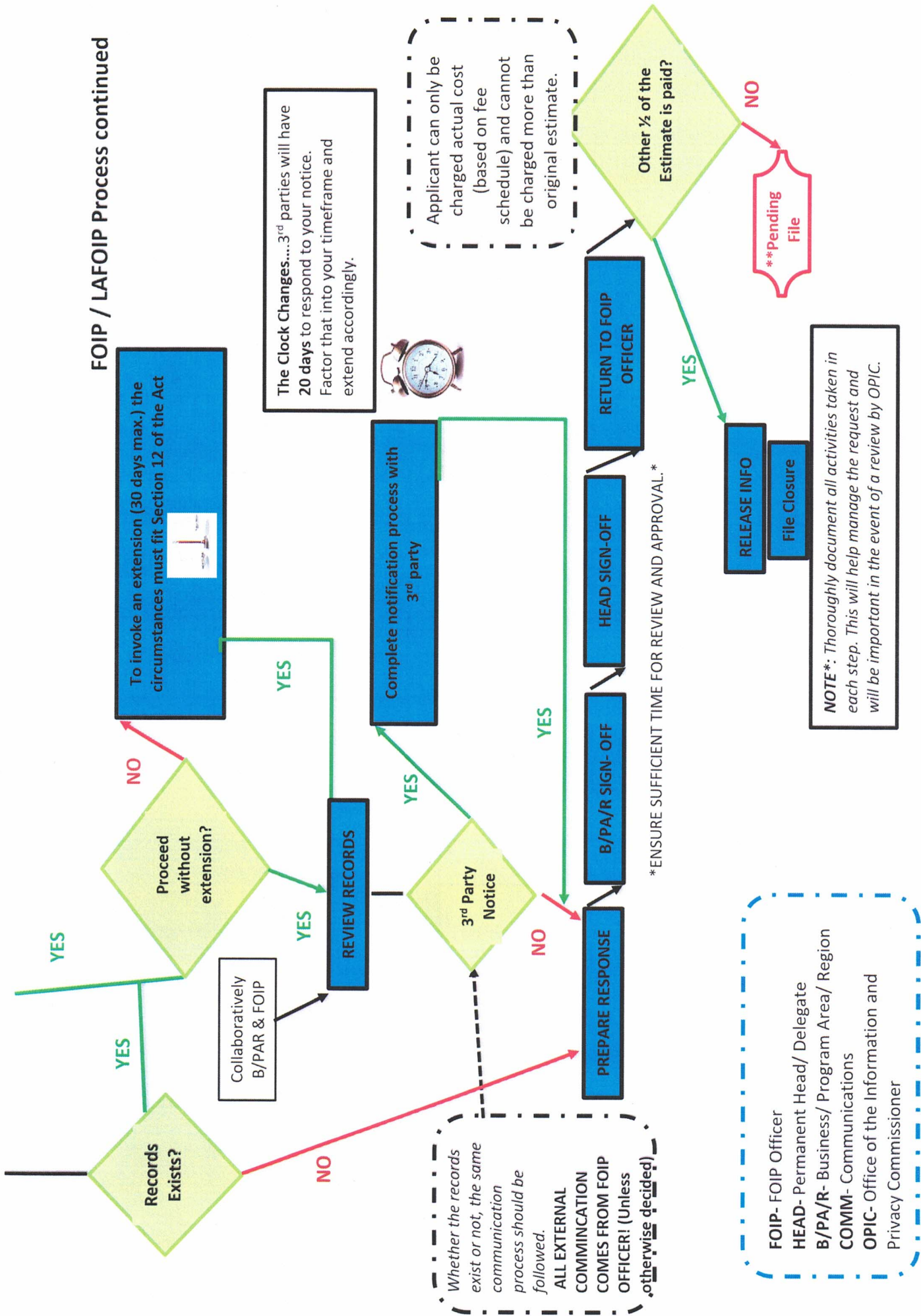
Please see chart below to help in making LAFOIP decisions:

# FOIP / LAFOIP Process





# FOIP / LAFOIP Process continued



Applicant can only be charged actual cost (based on fee schedule) and cannot be charged more than original estimate.

The Clock Changes....3<sup>rd</sup> parties will have 20 days to respond to your notice. Factor that into your timeframe and extend accordingly.



Whether the records exist or not, the same communication process should be followed.  
 ALL EXTERNAL COMMUNICATION COMES FROM FOIP OFFICER! (Unless otherwise decided)

- FOIP- FOIP Officer
- HEAD- Permanent Head/ Delegate
- B/PA/R- Business/ Program Area/ Region
- COMM- Communications
- OPIC- Office of the Information and Privacy Commissioner

\*ENSURE SUFFICIENT TIME FOR REVIEW AND APPROVAL.\*

NOTE\*: Thoroughly document all activities taken in each step. This will help manage the request and will be important in the event of a review by OPIC.

**APPENDIX A: FEE SCHEDULE**

Application Fee:	<b>\$20</b>
Administration Searching for information Fee:	<b>\$40hr (3 hr minimum—Overcharges refunded to ratepayer</b>
Printing and Photocopying:	<b>\$0.50/ page</b>
Professional Fees (i.e., lawyer, accounting, planning, etc.)	<b>As per hourly rate billed to Municipality</b>

**APPLICANT DECLARATION FORM**

I, \_\_\_\_\_, of \_\_\_\_\_, Saskatchewan, agree to pay for all costs associated with the Local Freedom of Information Policy (LAFOIP) request I have submitted into the Municipality office for records requested. I acknowledge that the invoice provided by the Municipality will be the total amount of time and costs associated with procuring the information from my request, and I agree that I will pay all costs prior to the receipt of said information from the Municipality.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Administrator