

**DISTRICT OF SEHELDT**

**BYLAW NO. 248, 1994**

**A BYLAW FOR THE ADMINISTRATION OF THE FREEDOM OF  
INFORMATION AND PROTECTION OF PRIVACY ACT**

=====

**WHEREAS**, under the Freedom of Information and Protection of Privacy Act (the "Act"), a local government:

- (a) must designate a person or group of persons as the Head of the municipality for the purposes of the Freedom of Information and Protection of Privacy Act (the "Head");
- (b) may authorize a person to perform any duty or exercise any function under the Act of the Head of the municipality, and
- (c) may set any fees the local public body requires to be paid under section 75 of the Freedom of Information and Protection of Privacy Act.

**NOW, THEREFORE**, the Council of the District of Sechelt in open meeting assembled enacts as follows:

**1. Citation**

This Bylaw may be cited for all purposes as the District of Sechelt "Freedom of Information Bylaw No. 248, 1994.

**2. Definitions and Interpretation**

The definitions contained in Schedule 1 of the Act and those in the preamble of this Bylaw shall apply to this Bylaw except where the context requires otherwise.

In this Bylaw the following definitions shall apply:

"Commercial Applicant" means a person who makes a request for access to a record to obtain information for use in connection with a trade, business, profession or other venture for profit.

Freedom of Information and Protection of Privacy Bylaw No. 248, 1994

"Coordinator" means the person designated in Section 3(3) as the Information and Privacy Coordinator.

"Council" means the Council of the District of Sechelt.

"Municipality" means the District of Sechelt.

"Records Manager" means the person hired by the Municipality to fill the position or assume the responsibility of Records Manager.

"Request" means a request under Section 5 of the Act.

3. Administration

- (1) The Council hereby appoints the Clerk for the Municipality as the Head for the purposes of the Act.
- (2) The duties and powers and related functions of Head which remain those of the Head are set out for reference in Schedule "A".
- (3) The Council hereby designates the Records Manager to be the Information and Privacy Coordinator.

4. Duties and Powers of the Coordinator

The Council hereby authorizes the Coordinator to perform the following duties or exercise the following powers and other related functions of the Head under the Act:

(1) Respond to Requests

- (a) The power to create a record from a machine readable record in the custody or under the control of the municipality using its normal computer hardware and software and technical expertise where creating the record would not unreasonably interfere with the operations of the Municipality or the time constraints of the Coordinator;
- (b) The power to respond to a request after the Head has made a decision regarding the disclosure or non-disclosure of a record.

Freedom of Information and Protection of Privacy Bylaw No. 248, 1994

(2) Extend Time

- (a) The power to extend the time for responding to a request for up to 30 days.
- (b) The power to apply to the Information and Privacy Commissioner for a longer period for response to a request where:
  - (i) the applicant does not give enough detail to enable the Municipality to identify a requested record,
  - (ii) a large number of records is requested or must be searched and meeting the time limit would unreasonably interfere with the operations of the Municipality,
  - (iii) more time is needed to consult with a third party or other public body before the Head can decide whether or not to give the applicant access to a requested record, or,
  - (iv) a third party asks for a review under section 52(2) or 62(2) of the Act.
- (c) The power to tell the applicant the reason for an extension, when a response can be expected and that the applicant may complain about the extension under section 42(2)(b) or 60(1)(a) of the Act where the time for a response to a request has been extended under section 10(1) of the Act.

(3) Transfer Requests

- (a) The power to transfer a request and, if necessary, the records to another public body if:

Freedom of Information and Protection of Privacy Bylaw No. 248, 1994

- (i) the record was produced by or for the other public body,
- (ii) the other public body was the first to obtain the record, or
- (iii) the record is in the custody or under the control of the other public body.

(b) The power to notify the applicant of the transfer.

(4) Refuse Certain Disclosure

The power to refuse to disclose information that is available for purchase by the public under section 20(1)(a) of the Act.

(5) Give Notification

- (a) The power to notify a third party that the municipality intends to give access to a record that the Coordinator has reason to believe contains information that might be expected from disclosure under section 21 (information harmful to business interests of a third party) or section 22 (information harmful to personal privacy) of the Act.
- (b) The power to give a notice under section 23(1.2) of the Act where the Coordinator does not intend to give access to a record that contains information excepted from disclosure under section 21 (information harmful to business interests of a third party) or section 22 (information harmful to personal privacy) of the Act.
- (c) The power to give written notice of the decision whether or not to give access to a record that the Head has reason to believe contains information that might be excepted from disclosure under section 21 or 22 of the Act to the applicant and a third party.

(6) Disclose Public Interest Information

The power to disclose information in accordance with section 25 of the Act to the public, to an affected group of people or to an applicant:

- (a) about a risk of significant harm to the environment or to the health or safety of the public or a group of people, or
- (b) the disclosure of which is, for any other reason, clearly in the public interest.

Freedom of Information and Protection of Privacy Bylaw No. 248, 1994

(7) Protect Certain Information

- (a) The power to protect personal information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal.
- (b) The duty to refuse to disclose information to an applicant if the disclosure is prohibited or restricted by or under another Act.

(8) Comply with Commissioner's Orders

The power to comply with an order of the Information and Privacy Commissioner.

5. Fees

Except where a lesser maximum fee is prescribed by regulation to the Act, an applicant making a request shall pay to the Municipality the fees set out in the Schedule "B" for the purpose of:

- (a) locating, retrieving and producing the record;
- (b) preparing the record for disclosure;
- (c) shipping and handling the record;
- (d) providing a copy of the record.

6. Coming Into Force

This Bylaw shall come into force and effect upon proclamation of Stats B.C. 1992 c.46, as it applies to municipalities.


**READ A FIRST TIME** this 16th day of November, 1994.

**READ A SECOND TIME** this 16th day of November 1994.

**READ A THIRD TIME** this 16th day of November 1994.

**RECONSIDERED AND FINALLY ADOPTED** this 7th day of December, 1994.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Municipal Clerk

I hereby certify this to be a true and accurate copy of District of Sechelt Freedom of Information Bylaw No. 248, 1994.

  
\_\_\_\_\_  
Municipal Clerk

## BYLAW NO. 248, 1994

### DUTIES AND POWERS OF THE HEAD

#### SCHEDULE "A"

<u>Section</u>	<u>Description</u>
6(1)	The duty to assist applicants.
8(2)	The power to refuse in a response to confirm or deny the existence of: <ul style="list-style-type: none"><li>(a) a record containing information described in section 15 of the Act (information harmful to law enforcement); or</li><li>(b) a record containing personal information of a third party if disclosure of the existence of the information would be an unreasonable invasion of that party's personal privacy.</li></ul>
12.1	The power to refuse to disclose to an applicant information that would reveal: <ul style="list-style-type: none"><li>(a) a draft resolution, bylaw or other legal instrument by which the Municipality acts or a draft of a private bill, or</li><li>(b) the substance of deliberations of a meeting of Members of Council, a Council Meeting or a Committee Meeting of Council, if a statute of British Columbia or a regulation under that statute authorizes the holding of that meeting in the absence of the public.</li></ul>
13	The power to refuse to disclose information that would reveal advice or recommendations developed by or for a Council, Council Committee or Members of Council.
14	The power to refuse to disclose information subject to solicitor/client privilege.
15	The power to refuse to disclose information if the disclosure could reasonably be expected to harm a law enforcement matter or that would have any of the other results set out in section 15 of the Act.
16	The power to refuse to disclose information if the disclosure could reasonably be expected to be harmful to intergovernmental relations or negotiations in accordance with section 16 of the Act.

**DUTIES AND POWERS OF THE HEAD  
SCHEDULE "A"**

- 17(1) The power to refuse to disclose information which could reasonably be expected to harm the financial or economic interests of the Municipality or other local public body or the government of British Columbia or the ability of that government to manage the economy including the matters set out in section 17(1) of the Act.
- 17.(1.1) The power to refuse to disclose research information under section 17(1.1) of the Act.
- 18 The power to refuse to disclose information if the disclosure could reasonably be expected to result in damage to interfere with the conservation of any of the matters referred to in section 18 of the Act.
- 19(1) The power to refuse to disclose information, including personal information about an applicant, where the disclosure could reasonably be expected to threaten anyone else's safety or mental or physical health or interfere with public safety under section 19(1) of the Act.
- 19(2) The power to refuse to disclose to an applicant personal information about the applicant if the disclosure could reasonably be expected to result in immediate and grave harm to the applicant's safety or mental or physical health under section 19(2) of the Act.
- 20(1)(b) The power to refuse to disclose information that will be released or published within 60 days.
- 21 The duty to refuse to disclose information harmful to the business interests of a third party in accordance with section 21 of the Act.
- 22 The power to refuse to disclose personal information if disclosure would be an unreasonable invasion of a third party's personal privacy under section 22 of the Act.
- 24 The duty to make a decision and to give written notice of a decision under section 24 of the Act.
- 70 The duty to make available to the public manuals, instructions, or guidelines issued to the offices or employees of the Municipality or substantive rules or policy statements adopted by the Municipality in accordance with section 70 of the Act.

**DUTIES AND POWERS OF THE HEAD  
SCHEDULE "A"**

- 71 The power to describe categories of records that are in the custody or under the control of the Municipality and that are available to the public on demand without request for access under the Act, to require persons who ask for a copy of an available record to pay a fee to the Municipality in accordance with section 71 of the Act.
- 75(5) The power to excuse an applicant from paying all or part of a fee if, in the Head's opinion, the applicant cannot afford the payment or for any other reason it is fair to excuse payment or the record relates to a matter of public interest, including the environment or public health or safety.

(NOTE: While the list of powers and duties set out above represents those powers and duties which the Coordinator is not specifically granted, in practice many of the duties will actually be fulfilled by staff acting on behalf of the Head, such as the duty under section 70 to make available to the public manuals, instruction or guidelines.)

## SCHEDULE "B"

### SCHEDULE OF MAXIMUM FEES

1. For applicants other than commercial applicants:
  - (a) for locating and retrieving a record \$7.50 per 1/4 hour after the first 3 hours
  - (b) for producing a record manually \$7.50 per 1/4 hour
  - (c) for producing a record from a machine readable record \$16.50 per minute for cost of use of central mainframe processor and all locally attached devices plus \$7.50 per 1/4 hour for developing a computer program to produce the record
  - (d) for preparing a record for disclosure and handling a record
  - (e) for shipping copies \$7.50 per 1/4 hour actual costs of shipping method chosen by applicant

**SCHEDULE OF MAXIMUM FEES  
SCHEDULE "B"**

(f)	for copying records	
(i)	photocopies and computer printouts	\$.25 per page (8.5" x 11", 8.5" x 14") or \$.30 per double sided page; \$.60 per page (11" x 17") and actual cost for colour
(ii)	floppy disks	\$10.00 per disk
(iii)	computer tapes	\$40.00 per tape, up to 2400 feet
(iv)	microfiche	actual costs *
(v)	16 mm microfilm duplication	actual costs *
(vi)	35 mm microfilm duplication	actual costs *
(vii)	microfilm to paper duplication	actual costs *
(viii)	photographs(colour or black & white)	\$5.00 to produce a negative and, actual costs for each print *
(ix)	photographic print of textual, graphic or cartographic record (8" x 10" black and white)	actual cost *
(x)	hard copy laser print, B/W, 300 dots/inch	\$ .30 each
(xi)	hard copy laser print, B/W, 1200 dots/inch	\$ .40 each
(xii)	hard copy laser print, colour	\$ 1.65 each
(xiii)	photomechanical reproduction of 105 mm cartographic record/plan	actual cost *
(xiv)	slide duplication	actual cost *
(xv)	plans or maps (photocopies)	\$1.00 per square metre
(xvi)	audio cassette duplication	\$10.00 plus \$7.00 per 1/4 hour of recording

**SCHEDULE OF MAXIMUM FEES  
SCHEDULE "B"**

(xvii)	video cassettes(1/4" or 8 mm) duplication	\$11.00 per 60 minute cassette plus 7.00 per 1/4 hour of recording; \$20.00 per 120 minute cassette plus \$7.00 per 1/4 hour of recording
(xviii)	video cassette (1/2") duplication	\$15.00 per cassette plus \$11.00 per 1/4 hour of recording
(xix)	video cassette (3/4") duplication	\$40.00 per cassette plus \$11.00 per 1/4 hour of recording
2.	For commercial applicants for each service listed in item 1	the actual cost of providing that service