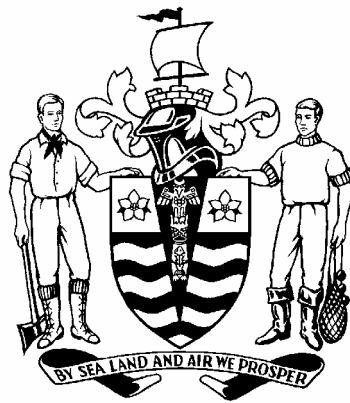


CITY OF VANCOUVER BRITISH COLUMBIA



FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY BY-LAW NO. 7364

This By-law is printed under and
by authority of the Council of
the City of Vancouver

(Consolidated for convenience only
to February 10, 2004)

BY-LAW NO. 7364

A By-law Providing for the Administration
of the Freedom of Information and Protection
of Privacy Act

[Consolidated for convenience only,
amended to include By-law No. 8785,
effective February 10, 2004]

Whereas Section 77 of the *Freedom of Information and Protection of Privacy Act* requires that Council designate a person or group of persons as the "head" for the purposes of that Act, and enables Council to authorize a person to perform any duty or exercise any function of the head and to set fees to be paid by an applicant who makes a request under Section 5 of that Act;

THE COUNCIL OF THE CITY OF VANCOUVER, in open meeting assembled, enacts as follows:

1. This by-law may be cited as the "Freedom of Information and Protection of Privacy By-law".

2. In this by-law

"Act" means the *Freedom of Information and Protection of Privacy Act*,

"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,

"Co-ordinator" means the person designated in section 4 as the Information and Privacy Co-ordinator, except that for the purposes only of section 5.17 "Co-ordinator" means the City Archivist,

"day" does not include a holiday or a Saturday, and

"Head" means the persons designated in section 3.

3. The City Clerk, the City Manager and the Director of Legal Services of the City of Vancouver are designated as "Head" for the purposes of the Act.

4. The City Clerk is designated as the Information and Privacy Co-ordinator.

5. The Co-ordinator is authorized to perform the following duties and to exercise the following functions of the Head:

5.1 Responding to Requests

- (1) The power to respond to a request including where the Head has the discretion under the Act to determine whether information shall be released or withheld from disclosure;
- (2) The duty to respond to a request after a decision has been made regarding whether or not the applicant is entitled to access to the record or to part of the record; [section 8(1) of the Act]
- (3) In responding to a request, the power to refuse to confirm or deny the existence of:
 - (a) a record containing information described in section 15 of the Act (information harmful to law enforcement), or
 - (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; [section 8(2) of the Act]
- (4) The duty to create a record from a machine readable record in the custody or under the control of the City of Vancouver using its normal computer hardware and software and technical expertise if creating the record would not unreasonably interfere with the operations of the City; [section 6(2) of the Act]
- (5) The duty:
 - (a) when responding to a request and where the record can reasonably be reproduced, to provide an applicant with a copy of a record or part of a record, or
 - (b) to give reasons for the delay in providing the record; [section 9 of the Act]

5.2 Extension of Time [section 10 of the Act]

- (1) The power to extend the time for responding to a request for up to 30 days or, with the permission of the Information and Privacy Commissioner, for a longer period if:
 - (a) the applicant does not give enough detail to enable the City of Vancouver to identify a requested record,
 - (b) a large number of records is requested or must be searched and meeting the time limit would unreasonably interfere with the operations of the City of Vancouver, or

- (c) 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;
- (2) If the time for responding to a request has been extended under section 10(1) of the Act, the duty 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;

5.3 Transfer Request [section 11 of the Act]

- (1) The power to transfer a request and, if necessary, a record to another public body if:
 - (a) the record was produced by or for the other public body,
 - (b) the other public body was the first to obtain the record, or
 - (c) the record is in the custody or under the control of the other public body;
- (2) If a request is transferred under section 11(1) of the Act, the duty to notify the applicant of the transfer;

5.4 Cabinet and local public body confidences [section 12 of the Act]

- (1) The duty, subject to section 12(2) of the Act, to refuse to disclose to an applicant information that would reveal the substance of deliberations of the Executive Council or any of its committees, including any advice, recommendations, policy considerations or draft legislation or regulations submitted or prepared for submission to the Executive Council or any of its committees.
- (2) The power, subject to section 12(4) of the Act, to refuse to disclose to an applicant information that would reveal
 - (a) a draft of a resolution, bylaw or other legal instrument by which the City acts or a draft of a private Bill, or
 - (b) the substance of deliberations of a meeting of the City Council or its committee, if an Act or a regulation under this Act authorizes the holding of that meeting in the absence of the public.

5.5 Policy advice, recommendations or draft regulations [section 13 of the Act]

The power, subject to section 13(2) of the Act, to refuse to disclose to an applicant information that would reveal advice or recommendations developed by or for a public body or a minister.

5.6 Legal advice [section 14 of the Act]

The power to refuse to disclose to an applicant information that is subject to solicitor client privilege.

5.7 Disclosure harmful to law enforcement [section 15 of the Act]

- (1) The power, subject to section 15(3) and (4) of the Act, to refuse to disclose information to an applicant if the disclosure could reasonably be expected to
 - (a) harm a law enforcement matter,
 - (b) prejudice the defence of Canada or of any foreign state allied to or associated with Canada or harm the detection, prevention or suppression of espionage, sabotage or terrorism,
 - (c) harm the effectiveness of investigative techniques and procedures currently used, or likely to be used, in law enforcement,
 - (d) reveal the identity of a confidential source of law enforcement information,
 - (e) reveal criminal intelligence that has a reasonable connection with the detection, prevention or suppression of organized criminal activities or of serious and repetitive criminal activities,
 - (f) endanger the life or physical safety of a law enforcement officer or any other person,
 - (g) reveal any information relating to or used in the exercise of prosecutorial discretion,
 - (h) deprive a person of the right to a fair trial or impartial adjudication,
 - (i) reveal a record that has been confiscated from a person by a peace officer in accordance with an enactment,
 - (j) facilitate the escape from custody of a person who is under lawful detention,
 - (k) facilitate the commission of an offence under an enactment of British Columbia or Canada, or

- (l) harm the security of any property or system, including a building, a vehicle, a computer system or a communications system.
- (2) The power, subject to section 15(3) and (4) of the Act, to refuse to disclose information to an applicant if the information
 - (a) is in a law enforcement record and the disclosure would be an offence under an Act of Parliament,
 - (b) is in a law enforcement record and the disclosure could reasonably be expected to expose to civil liability the author of the record or a person who has been quoted or paraphrased in the record, or
 - (c) is about the history, supervision or release of a person who is in custody or under supervision and the disclosure could reasonably be expected to harm the proper custody or supervision of that person.

5.8 Disclosure harmful to intergovernmental relations or negotiations [section 16 of the Act]

- (1) The power, subject to section 16(3) of the Act, to refuse to disclose information to an applicant if the disclosure could reasonably be expected to
 - (a) harm the conduct by the government of British Columbia of relations between that government and any of the following or their agencies:
 - (i) the government of Canada or a province of Canada;
 - (ii) the council of a municipality or the board of a regional district;
 - (iii) an aboriginal government;
 - (iv) the government of a foreign state;
 - (v) an international organization of states,
 - (b) reveal information received in confidence from a government, council or organization listed in paragraph (a) or their agencies, or
 - (c) harm the conduct of negotiations relating to aboriginal self government or treaties.
- (2) The duty to not disclose information referred to in subsection (1) without the consent of
 - (a) the Attorney General, for law enforcement information, or
 - (b) the Executive Council, for any other type of information.

5.9 Disclosure harmful to the financial or economic interests of a public body [section 17 of the Act]

- (1) The power, subject to section 17(3) of the Act, to refuse to disclose to an applicant information the disclosure of which could reasonably be expected to harm the financial or economic interests of a public body or the government of British Columbia or the ability of that government to manage the economy, including the following information:
 - (a) trade secrets of a public body or the government of British Columbia;
 - (b) financial, commercial, scientific or technical information that belongs to a public body or to the government of British Columbia and that has, or is reasonably likely to have, monetary value;
 - (c) plans that relate to the management of personnel of or the administration of a public body and that have not yet been implemented or made public;
 - (d) information the disclosure of which could reasonably be expected to result in the premature disclosure of a proposal or project or in undue financial loss or gain to a third party;
 - (e) information about negotiations carried on by or for a public body or the government of British Columbia.
- (2) The power to refuse to disclose under subsection (1) research information if the disclosure could reasonably be expected to deprive the researcher of priority of publication.

5.10 Disclosure harmful to the conservation of heritage sites, etc. [section 18 of the Act]

The power to refuse to disclose information to an applicant if the disclosure could reasonably be expected to result in damage to, or interfere with the conservation of,

- (a) fossil sites, natural sites or sites that have an anthropological or heritage value,
- (b) an endangered, threatened or vulnerable species, subspecies or race of plants, vertebrates or invertebrates, or
- (c) any other rare or endangered living resources.

5.11 Disclosure harmful to individual or public safety [section 19 of the Act]

- (1) The power to refuse to disclose to an applicant information, including personal information about the applicant, if the disclosure could reasonably be expected to
 - (a) threaten anyone else's safety or mental or physical health, or
 - (b) interfere with public safety.
- (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.

5.12 Information that will be Published or Released Within 60 Days [section 20 of the Act]

- (1) The power to refuse to disclose to an applicant information that is available for purchase by the public or that, within 60 days after the applicant's request is received, is to be published or released to the public;
- (2) The duty to notify an applicant of the publication or release of information that the Head has refused to disclose under section 20(1)(b) of the Act;

5.13 Business Interests [section 21 of the Act]

- (1) The duty, subject to section 21(3) of the Act, to refuse to disclose information to an applicant:
 - (a) that would reveal
 - (i) trade secrets of or about a third party, or
 - (ii) commercial, financial, labour relations, scientific or technical information of or about a third party,
 - (b) that is supplied, implicitly or explicitly, in confidence, and
 - (c) the disclosure of which could reasonably be expected to
 - (i) harm significantly the competitive position or interfere significantly with the negotiating position of the third party,
 - (ii) result in similar information no longer being supplied to the City of Vancouver when it is in the public interest that similar information continue to be supplied,
 - (iii) result in undue financial loss or gain to any person or organization, or

- (iv) reveal information supplied to, or the report of, an arbitrator, mediator, labour relations officer or other person or body appointed to resolve or inquire into a labour relations dispute;
- (2) The duty, subject to section 21(3) of the Act, to refuse to disclose to an applicant information that was obtained on a tax return or gathered for the purpose of determining tax liability or collecting a tax;

5.14 Disclosure harmful to personal privacy [section 22 of the Act]

- (1) The duty to refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy.
- (2) In determining whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the duty to consider all the relevant circumstances, including whether
 - (a) the disclosure is desirable for the purpose of subjecting the activities of the government of British Columbia or a public body to public scrutiny,
 - (b) the disclosure is likely to promote public health and safety or to promote the protection of the environment,
 - (c) the personal information is relevant to a fair determination of the applicant's rights,
 - (d) the disclosure will assist in researching or validating the claims, disputes or grievances of aboriginal people,
 - (e) the third party will be exposed unfairly to financial or other harm,
 - (f) the personal information has been supplied in confidence,
 - (g) the personal information is likely to be inaccurate or unreliable, and
 - (h) the disclosure may unfairly damage the reputation of any person referred to in the record requested by the applicant.
- (3) On refusing, under this section, to disclose personal information supplied in confidence about an applicant, the duty to give the applicant a summary of the information unless the summary cannot be prepared without disclosing the identity of a third party who supplied the personal information.
- (4) The power to allow the third party to prepare the summary of personal information under subsection (3).

5.14A Disclosure of information relating to abortion services [section 22.1 of the Act]

The duty to refuse to disclose to an applicant information that relates to the provision of abortion services, being lawful medical services for the termination of a pregnancy, except that this duty does not apply to:

- (a) information about abortion services that were received by the applicant;
- (b) statistical information, including financial information, relating to the total number of abortion services provided throughout British Columbia or a region that is designated under section 4(1)(b) of the Health Authorities Act if more than one health care body provides abortion services in that region; or
- (c) information about a public body's policies on the provision of abortion services;

5.15 Notification [sections 23 and 24 of the Act]

- (1) The duty to notify a third party under section 23(1) of the Act that the Co-ordinator or the Head, as the case may be, intends to give access to a record that the Co-ordinator or the Head, as the case may be, has reason to believe contains information that might be excepted from disclosure under section 21 [disclosure harmful to business interests of a third party] or section 22 [disclosure harmful to personal privacy] of the Act;
- (2) The power to notify a third party under section 23(2) of the Act where the Co-ordinator or the Head, as the case may be, does not intend to give access to a record that contains information excepted from disclosure under section 21 or section 22 of the Act;
- (3) The duty to give written notice to the applicant and the third party of the decision made under section 24(1) of the Act of whether or not to give access to a record;

5.15A Correction of personal information [section 29 of the Act]

- (1) Where an applicant believes there is an error or omission in his or her personal information in the custody or control of the City of Vancouver, the duty to consider a request by the applicant to correct this information;
- (2) If no correction is made in response to a request under section 29(1) of the Act, the duty to annotate the information with the correction that was requested but not made;
- (3) On correcting or annotating personal information, the duty to notify any other public body or third party referred to in section 29(3) of the Act;

- (4) On being notified under section 29(3) of the Act of a correction or annotation of personal information, the duty to make the correction or annotation on any record in the custody or under the control of the City of Vancouver;

5.16 Information Protection [sections 30 and 79 of the Act and general duty to protect information]

- (1) The duty to protect personal information in the custody or under the control of the City of Vancouver by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal;
- (2) The duty to refuse to disclose information to an applicant if the disclosure is prohibited or restricted by or under another statute unless the Act, as required by section 79 thereof, prevails.

5.17 Disclosure for Archival or Historical Purposes [section 36 of the Act]

Subject to section 36 of the Act, the power to disclose personal information or cause personal information in its custody or under its control to be disclosed for archival or historical purposes;

5.18 Commissioner's Orders [section 59 of the Act]

Not later than 30 days after being given a copy of an order of the Information and Privacy Commissioner, the duty to comply with the order unless an application for judicial review of the order is brought before that period ends, and the duty to comply with a court order.

5.18A Personal Information Directory [section 69 of the Act]

The duty to make available for inspection and copying by the public a directory that lists the City of Vancouver's personal information banks and includes the information required under section 69(6) of the Act.

5.19 Fees [section 75 of the Act]

- (1) The power, subject to section 75(2) and (3) of the Act, to require an applicant who makes a request under section 5 of the Act to pay to the City fees for the following services:
 - (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.

- (2) If an applicant is required to pay fees for services under subsection (1):
 - (a) the duty to give the applicant an estimate of the total fee before providing the service; and
 - (b) the power to require the applicant to pay a deposit in the amount set by the Co-ordinator;
- (3) The power to excuse an applicant from paying all or part of a fee if, in the Co-ordinator's opinion,
 - (a) the applicant cannot afford the payment or for any other reason it is fair to excuse payment, or
 - (b) the record relates to a matter of public interest, including the environment or public health or safety.

6. An applicant requesting access to a record pursuant to Section 5 of the Act must apply in writing and may be required to pay to the City the fees as set out in Schedule A, which is attached to and forms a part of this by-law.

7. By-law No. 5591 is repealed.

8. This by-law comes into force and takes effect on the date of its passing.

DONE AND PASSED in open Council this 13th day of December, 1994.

"(signed) Philip W. Owen"
Mayor

"(signed) Maria C. Kinsella"
City Clerk

#79195v1

SCHEDULE A

FEES

The following fees must be paid by an applicant for the purpose of

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

1. For applicants other than commercial applicants:

- | | | |
|--------|--|--|
| (a) | for locating and retrieving and 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 | \$7.50 per 1/4 hour |
| (e) | for shipping copies | actual costs of shipping method chosen by applicant |
| (f) | for copying records | |
| (i) | photocopies and computer printouts | \$.25 per page (8.5" x 11", 8.5" x 4")
\$.30 per page (11" x 17") |
| (ii) | floppy disks | \$10.00 per disk |
| (iii) | computer tapes | \$40.00 per tape, up to 2400 feet |
| (iv) | microfiche | \$10.00 per fiche |
| (v) | 16 mm microfilm duplication | \$25.00 per roll |
| (vi) | 35 mm microfilm duplication | \$40.00 per roll |
| (vii) | microfilm to paper duplication | \$.50 per page |
| (viii) | photographs (colour or black and white) | \$5.00 to produce a negative
\$12.00 each for 16" x 20"
\$9.00 each for 11" x 14"
\$4.00 each for 8" x 10"
\$3.00 each for 5" x 7" |
| (ix) | photographic print of textual, graphic or cartographic record (8" x 10") (black and white) | \$12.50 each |
| (x) | hard copy laser print, B/W, 300 dots/inch | \$.25 each |

(xi)	hard copy laser print, colour	\$2.50 each
(xii)	slide duplication	\$.95 each
(xiii)	plans	\$1.00 per square metre
(xiv)	audio cassette duplication	\$10.00 plus \$7.00 per 1/4 hour of recording
(xv)	video cassette (1/2" duplication)	\$15.00 per cassette plus \$11.00 per 1/4 hour of recording

2. For commercial applicants:

(a) for each service listed in item 1 the actual cost of providing that service where the actual cost exceeds the cost using section 1 of this schedule