

VILLAGE OF SAYWARD

BYLAW NO. 332

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

WHEREAS the Freedom of Information and the Protection of Privacy Act, RSBC 1996, as amended, requires that a municipality, by bylaw:

- (a) must designate a person or group of persons as the Head of the municipality for the purposes of the *Act*
- (b) may authorize any person to perform any duty or exercise any function under the *Act* as Head of the municipality; and
- (c) may set any fees that the municipality requires to be paid for providing the services described in Section 75 of the *Act*.

NOW THEREFORE the Council of the Village of Sayward, in open meeting assembled, enacts as follows:

1. **Title**

1.1 This Bylaw be cited for all purposes as the "Freedom of Information Bylaw, No. 332"

2. **Definitions and Interpretation**

2.1 The definitions contained in Part 1 of the *Act* shall apply to this Bylaw except where the context requires otherwise.

2.2 In this Bylaw:

Act means the *Freedom of Information and Protection of Privacy Act, RSBC 1996*

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;

Coordinator means the person designated in Section 3.3 of this Bylaw as the Information and Privacy Coordinator;

Council means the Mayor and Council of the Village of Sayward;

Head means the person designated under Section 3.1 of this Bylaw as the Head;

Request means a request under Section 5 of the *Act*;

Village means the Village of Sayward.

3. Administration

- 3.1 The **Council** is designated as **Head** for the purposes of the **Act**.
- 3.2 The duties and functions of the **Head** are set out for reference in Appendix 1.
- 3.3 The Chief Administrative Officer for the **Village** is designated as the **Coordinator**.
- 3.4 For the purposes of the **Act**, the **Head** and the **Coordinator** shall act in their respective capacities for all committees and commission of the **Village**.

4. Powers of the Coordinator

The Council hereby authorizes the **Coordinator** to perform the following duties or exercise the following functions of the **Head** under the **Act**.

4.1 Responding to Requests

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

4.2 Extensions of 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 time period for response to a request where:
 - (i) the applicant does not give enough detail to enable the **Village** 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.

4.3 Transfer Request

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

4.4 Information Available for Purchase

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

4.5 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 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.
- (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.

4.6 Public Interest

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.

4.7 Information Protection

- (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.

4.8 Commissioner's Orders

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

5.0 Fees

An applicant making a request shall pay to the **Village** the fees set out in Schedule "A" 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.

READ a first time by the Municipal Council this 10th day of November, 2004.

READ a second time by the Municipal Council this 10th day of November, 2004.

READ a third time by the Municipal Council this 10th day of November, 2004.

ADOPTED by the Municipal Council of the Village of Sayward this 24th day of November, 2004.

Mayor

Chief Administrative Officer

**APPENDIX 1 to Bylaw #332, 2004
Duties of the Head**

<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: (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.
12.1	The power 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 local public body acts or a draft of a private bill, or (b) the substance of deliberations of a meeting of its elected officials or if its governing body or a committee of its governing body, if an Act or a regulation under this Act authorizes the holding of that meeting the absence of the public.
13	The power to refuse to disclose information that would reveal advice or recommendations developed by or for a public body.
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 reasonable 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.
17(1)	The power to refuse to disclose information which could reasonably be expected to harm the financial or economic interests of a 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(1.10)	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 reasonable be expected to result in damage to or interfere with the conservation of any of the mattes 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 officers or employees of the public body or substantive rules or policy statements adopted by the public body in accordance with section 70 of the Act.
- 71 The power to prescribe categories of records that are in the custody or under the control of the public body and that are available to the public on demand without request for access under the Act and to require persons who ask for a copy of an available record to pay a fee to the public body in accordance with section 71 of the Act.
- 75(5) The power to excuse an applicant for 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, where the record relates to a matter of public interest, including the environment or public health or safety.

SCHEDULE "A"
SCHEDULE OF MAXIMUM FEES

1.00	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	\$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 14") \$.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, 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	\$3.00 each
	(xiv) slide duplication	\$.95 each
	(xv) plans	\$1.00 per square metre
	(xvi) audio cassette duplication	\$10.00 plus \$7.00 per 1/4 hour of recording
	(xvii) video cassette (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 cassettes 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
2.00	For commercial applicants for each service listed in item 1	the actual cost of providing that service