

REGIONAL DISTRICT OF NORTH OKANAGAN

BYLAW No. 2504

A Bylaw for the Administration of the Freedom of Information and Protection of Privacy Act

WHEREAS under Section 77 of the *Freedom of Information and Protection of Privacy Act*, the Board of Directors must designate a person or group of persons as the Head of the local public body for the purposes of administering the *Freedom of Information and Protection of Privacy Act*;

NOW THEREFORE, the Board of Directors of the Regional District of North Okanagan, in open meeting assembled, enacts as follows:

1.0 CITATION

This Bylaw may be cited as "*Freedom of Information and Protection of Privacy Bylaw No. 2504, 2011*".

2.0 DEFINITIONS

2.1 The definitions contained in Schedule 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, R.S.B.C. 1996 Chapter 165 as amended from time to time.

"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 of this bylaw as the Information and Privacy Coordinator.

"Head" means the person or group of persons designated as the Head of the Regional District of North Okanagan under Section 3 of this bylaw.

"Regional District" means the Regional District of North Okanagan.

3.0 ADMINISTRATION

3.1 The Officer assigned the responsibility of Corporate Administration in accordance with Section 198 of the *Local Government Act*, and their Deputy, are designated as the Head for the purposes of the Act.

3.2 The Executive Assistant, Administration and the Corporate Services Clerk are designated as the Coordinator for the purposes of the Act.

4.0 **POWERS OF THE COORDINATOR**

The Coordinator is hereby authorized to perform those powers, duties or functions of the Head prescribed below in the sections of the Act set out opposite (where applicable) the corresponding power, duty, or function:

<u>Section Of Act</u>	<u>Description of Power, Duty, or Function</u>
	<p>4.1 Responding to Requests</p>
6(2)	<p>4.1.1 The duty to create a record from a machine readable record in the custody or under the control of the Regional District using its normal computer hardware and software and technical expertise if creating the record would not unreasonably interfere with the operations of the Regional District.</p> <p>4.1.2 The power to respond to a request after the Head has made a decision regarding the disclosure or non-disclosure of a record.</p>
9(2)	<p>4.1.3 The duty to:</p> <ul style="list-style-type: none"> (a) provide an applicant with a copy of a record or part of a record with a response where the record can reasonably be reproduced, or (b) to give reasons for the delay in providing the record.
	<p>4.2. Extension of Time</p>
10(1)	<p>4.2.1 The power to extend the time for responding to a request pursuant to Section 7 of the Act.</p>
10(1)	<p>4.2.2 The power to apply to the Information and Privacy Commissioner for a longer time period for response to a request where:</p> <ul style="list-style-type: none"> (a) the applicant does not give enough detail to enable the Regional District 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 Regional District, (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, or (d) a third party asks for a review under Section 52(2) or 62(2) of the Act.

- 10(2) 4.2.3 The power to advise the applicant of 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

- 11(1) 4.3.1 The power to transfer a request and, if necessary, the records 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 control of the other public body.

- 11(2) 4.3.2 The power to notify the applicant of the transfer.

4.4 Information to be Released Within 60 Days

- 20(1) 4.4.1 The power to refuse to disclose information that is available for purchase by the public under Section 20(1)(a) of the Act.
- 4.4.2 The power 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 on the basis that the information is to be published or released to the public, within 60 days after the applicant's request is received.

4.5 Notification

- 23(1) 4.5.1 The power to notify a third party that the Regional District intends to give access to a record that the Head 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.
- 23(1.1) 4.5.2 The power to give written notice where the Head does not intend to give access
(1.2) & (2) 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.
- 24(2) 4.5.3 The power to give written notice of the decision of the Head whether or not to give access to a record under Section 24(1) of the Act.

4.6 Business Interests

- 21(1) 4.6.1 The power to refuse to disclose to an applicant information:
- (a) that would reveal
 - (i) trade secrets of a third party, or
 - (ii) commercial, financial, labour relations, scientific or technical information of 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 public body 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.
- 4.6.2 The duty to refuse to disclose to an applicant information that was collected on a tax return or gathered for the purpose of determining tax liability or collecting a tax.
- 4.6.3 The duty set out in paragraphs (1) and (2) is subject to Section 21(3) of the Act which provides that the duty to refuse disclosure does not apply if a third party consents to the disclosure or the information is in a record that is in the custody or control of the British Columbia Archives and Record Service or the archives of a public body and that has been in existence for 50 or more years.

4.7 Public Interest

- 25(1) 4.7.1 The power to disclose information, if in the public interest, 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.

4.8 Information Protection

30

4.8.1 The power to protect personal information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal.

4.8.2 The duty to refuse to disclose information to an applicant if the disclosure is prohibited or restricted by or under another Act.

5.0 POWERS, DUTIES AND FUNCTIONS OF THE HEAD

Notwithstanding the provisions of sections 4.1 to 4.8 inclusive, the Head retains without limitation all the powers, duties and functions vested in the Head under the Act, including those which the Coordinator is authorized under this bylaw to exercise. The Head will exercise those powers, duties and functions retained by the Head and may, from time to time, exercise those powers, duties and functions set out in sections 4.1 to 4.8 inclusive in conjunction with or instead of the Coordinator.

6.0 FEES

The maximum fees charged by the Regional District as permitted under the Act shall be as outlined in Schedule "A" of this bylaw.

7.0 REPEAL

Bylaw No. 1259, 1994 Regional District of North Okanagan Freedom of Information and all amending bylaws thereto, are hereby repealed.

8.0 EFFECTIVE DATE

This bylaw shall come into effect on the date of its final adoption.

Read a First, Second, and THIRD Time

this 6th day of July, 2011

ADOPTED

this 6th day of July, 2011



Chair



**Christy Malden
Deputy Corporate Officer**

Corporate Officer

SCHEDULE "A"

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 preparing a record for disclosure and handling a record \$7.50 per 1/4 hour
 - (d) for shipping copies actual costs of shipping method chosen by applicant
 - (e) for copying records
 - (i) photocopies & printouts \$0.25 per page (8.5" x 11", 8.5" x 14")
\$0.30 per page (11" x 17")
 - (ii) photographic print of textual, graphic \$12.50 each
Cartographic record (8X10)
 - (iii) hard copy laser print, black & white \$0.25 per page
 - (iv) hard copy laser print, color \$1.65 per page
 - (v) plans \$1.00 square meter
 - (vi) compact disc CD or DVD \$10.00 each
 - (vii) USB Stick \$20.00 each
2. For commercial applicants
 - for each service listed in item 1 actual cost of providing service