

CITY OF TERRACE

BYLAW NO. 1722-2000

"A BYLAW OF THE CITY OF TERRACE 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, R.S.B.C. 1996, c.165, the Municipal Council of the City of Terrace:

1. *must designate a person or group of persons as the Head of the City for the purposes of the Freedom of Information and Protection of Privacy Act; and*
2. *may authorize any person to perform any duty or exercise any function under the Freedom of Information and Protection of Privacy Act of the person or group of persons designated as the Head of the City; and*
3. *may set any fees the City requires to be paid under Section 75 of the Freedom of Information and Protection of Privacy Act.*

NOW THEREFORE, the Municipal Council of the City of Terrace, in open meeting assembled, hereby enacts as follows:

1.0 DEFINITIONS AND INTERPRETATION

1.1 *The definitions contained in Schedule 1 of the Freedom of Information and Protection of Privacy Act shall apply to this bylaw except where the context requires otherwise.*

1.2 *In this bylaw:*

"Act" means the Freedom of Information and Protection of Privacy Act, R.S.B.C. 1996, c.165.

"City" means the Corporation of the City of Terrace.

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

"Co-ordinator" means the person appointed by the Council as the Freedom of Information Co-ordinator under Section 3 of this bylaw.

"Council" means the Council of the City of Terrace.

“Head” means the person or group of persons designated as the Head of the City under Section 2 of this bylaw.

2.0 HEAD

The Council hereby designates the Chief Administrative Officer as the Head for the purposes of the Freedom of Information and Protection of Privacy Act.

3.0 CO-ORDINATOR

The Council hereby appoints the Director of Administration as the Co-ordinator and authorizes the Director of Administration to perform the following duties or exercise the following functions of the Head under the Act:

3.1 Responding to Requests

3.1.1 *The duty to create a record from a machine readable record in the custody or under the control of the City using its normal computer hardware and software and technical expertise, if creating the record would not unreasonably interfere with the operation of the City.*

3.1.2 *The power to respond to a request except where, in the opinion of the Director of Administration, the Head has the discretion under the Act to determine whether a record shall be released or withheld from disclosure.*

3.1.3 *The power to respond to a request after the Head has made a decision regarding the disclosure or non-disclosure of a record.*

3.1.4 *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.*

3.1.5 The duty to:

- (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.*

3.2 Extension of Time

3.2.1 *The power to extend the time for responding to a request for up to thirty (30) days.*

3.2.2 *The power to apply to the Commissioner for a longer time period for response to a request where:*

- (a) *the applicant does not give enough detail to enable the City to identify a requested record;*
- (b) *a large number of records is requested or must be researched and meeting the time limit would unreasonably interfere with the operations of the City;*
- (c) *more time is needed to consult with a third party or other public body before the City 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.*

3.2.3 *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.*

3.3 Transfer Request

3.3.1 *The power to transfer a request and, if necessary, the record to another public body if:*

- (a) *the record was produced by or for the other public body;*
- (b) *the other 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.*

3.3.2 *The power to notify the applicant of the transfer.*

3.4 Information to be Released Within 60 Days

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 that within sixty (60) days after the applicant's request is received, is to be published or released to the public.

3.5 Business Interest

3.5.1 *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 dispute.*

3.5.2 *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.*

3.5.3 *The duty set out in paragraphs 3.5.1 and 3.5.2 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 Records Service or the archives of a public body and that has been in existence for fifty (50) or more years.*

3.6 Notification

- 3.6.1 *The power to notify a third party that the City intends to give access to a record that the Director of Administration 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.*
- 3.6.2 *The power to give a notice under Section 23(1.2) of the Act where the Director of Administration 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.*
- 3.6.3 *The power to give written notice of the decision whether or not to give access to a record that the Director of Administration 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.*

3.7 Public Interest

- 3.7.1 *The power to, without delay, disclose to the public, to an affected group of people or to an applicant, information:*
- (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.*

3.8 Information Protection

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

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

3.9 Commissioner's Order

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

3.10 Fees

The power to require an applicant making a request to pay to the City the fees set out in the City's Access to Information and Fees and Charges Bylaw for the purpose of:

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

4.0 PUBLIC RECORDS AVAILABLE WITHOUT REQUEST FOR ACCESS

The categories of records that are in the custody or under the control of the City and that are available to the public on demand without a request for access under the Act are set out in the City's Access to Information and Fees and Charges Bylaw.

This Bylaw may be cited, for all purposes, as "City of Terrace Freedom of Information and Protection of Privacy Bylaw No. 1722-2000".

READ a first time this 27th day of November, 2000.

READ a second time this 27th day of November, 2000.

READ a third time this 27th day of November, 2000.

ADOPTED this 11th day of December, 2000.

Mayor

Clerk