



**DISTRICT OF PORT HARDY  
BYLAW 1066-2017**

**ADMINISTRATION OF THE FREEDOM OF INFORMATION AND  
PROTECTION OF PRIVACY ACT**

**WHEREAS** Under section 76.1 of the *Freedom of Information and Protection of Privacy Act*, a local government:

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

**NOW THEREFORE** the Council of the District of Port Hardy in open meeting assembled enacts as follows:

**1. TITLE**

This Bylaw may be cited as the "**Administration of the Freedom of Information and Protection of Privacy Act Bylaw 1066-2017**"

**2. DEFINITIONS AND INTERPRETATION**

'Act' means the *Freedom of Information and Protection of Privacy Act*, as amended or replaced.

'District' means the Corporation of the District of Port Hardy.

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

'Coordinator' means the person designated in section 3.2 as the Information and Privacy Coordinator.

'Council' means the Municipal Council of the District of Port Hardy.

'Head' means the person designated as the Head of the District under section 3 of this bylaw.

'Request' means a request under section 5 of the Act.

**3. ADMINISTRATION**

3.1 The District's Chief Administrative Officer is designated as the Head for the purposes of the Act.

3.2 The District's Director of Corporate Services is designated as the Information and Privacy Coordinator.

**4. POWERS OF THE COORDINATOR**

The Council authorizes the Coordinator to perform the following duties and exercise the following functions:

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#### 4.1 Responding to Requests

- (a) the Coordinator must respond to requests except where the Head has the discretion under the Act to determine whether a record will be released or withheld from disclosure;
- (b) the Coordinator must create a record from a machine readable record in the custody or under the control of the District using its normal computer hardware and software and technical expertise if creating the record would not unreasonably interfere with the operations of the District;
- (c) the Coordinator must respond to a request after the Head has made a decision regarding the disclosure or non-disclosure of a record;
- (d) the Coordinator may refuse in a response to confirm or deny the existence of:
  - (i) a record containing information described in section 15 of the Act (information harmful to law enforcement); or
  - (ii) 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.
- (e) the Coordinator must:
  - (i) 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
  - (ii) give reasons for the delay in providing the record.

#### 4.2 Extension of Time

- (a) the Coordinator may extend the time for responding to a request for up to 30 days;
- (b) the Coordinator may apply to the Information and Privacy Commissioner for a longer period of time for response to a request where:
  - (i) the applicant does not give enough detail to enable the District 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 District;
  - (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 Coordinator must 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;

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#### 4.3 Transfer Request

- (a) the Coordinator may 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;
  - (iii) the record is in the custody or under the control of the other public body;
- (b) the Coordinator must notify the applicant of the transfer;
- (c) the Coordinator may refuse to disclose information that is available for purchase by the public under section 20(1)(a) of the Act.

#### 4.4 Information to be released within 60 days

- (a) the Coordinator must notify an applicant under section 20(1)(b) of the Act of the publication or release of information that the Head has refused to disclose 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 Business Interests

- (a) the Coordinator must refuse to disclose to an applicant information:
  - (i) that would reveal:
    - (A) trade secrets of a third party; or
    - (B) commercial, financial, labour relations, scientific or technical information of a third party.
  - (ii) that is supplied, implicitly or explicitly, in confidence; and
  - (iii) the disclosure of which could reasonably be expected to:
    - (A) harm significantly the competitive position or interfere significantly with the negotiating position of the third party;
    - (B) result in similar information no longer being supplied to the public body when it is in the public interest that similar information continues to be supplied;
    - (C) result in undue financial loss or gain to any person or organization; or
    - (D) 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.
- (b) the Coordinator must 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;

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- (c) the provisions of paragraphs (m) and (n) are subject to the application of 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 50 or more years.

#### 4.6 Notification

- (a) the Coordinator must notify a third party that the District 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 Coordinator may give 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 Coordinator may give written notice of the decision whether or not to give access to a record that the Coordinator 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.

#### 4.7 Public Interest

- (a) the Coordinator must disclose information in accordance with section 25 of the Act to the public, to an affected group of people or to an applicant:
  - (i) about a risk of significant harm to the environment or to the health or safety of the public or a group of people; or
  - (ii) the disclosure of which is, for any other reason, clearly in the public interest;
- (b) where information is to be disclosed under paragraph (a) the Coordinator must give notice as required under section 25 of the Act.

#### 4.8 Information Protection

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

#### 4.9 Commissioner's Orders

- (a) the Coordinator must comply with an order of the Information and Privacy Commissioner.

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**5. FEES**

An applicant making a request must pay to the District the fees set in the District of Port Hardy User Rate Bylaw for the purpose of:

- (1) locating, retrieving and producing the record;
- (2) preparing the record for disclosure;
- (3) shipping and handling the record;
- (4) providing a copy of the record.

**6. GENERAL PROVISIONS**

- 6.1 Nothing in this Bylaw shall be construed so as to require the District to preserve any document beyond the time when it is normally destroyed.
- 6.2 The production of information pursuant to this Bylaw shall not constitute a warranty of its accuracy or completeness.

**7. REPEAL**

7.1 Bylaw 12-2000 Administration of the Freedom of Information and Protection of Privacy Act is hereby repealed.

Read a first time on the 23<sup>rd</sup> day of May 2017

Read a second time on the 23<sup>rd</sup> day of May 2017

Read a third time on the 23<sup>rd</sup> day of May 2017

Adopted this 13<sup>TH</sup> day of June 2017

*Original signed by:*

\_\_\_\_\_  
DIRECTOR  
OF CORPORATE SERVICES

\_\_\_\_\_  
MAYOR

Certified a true copy of  
Bylaw No.1066-2017 as adopted.

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Director of Corporate Services