



## Committee of the Whole Report For the Meeting of November 14, 2024

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**To:** Committee of the Whole **Date:** November 6, 2024  
**From:** Curt Kingsley, City Clerk  
**Subject:** Freedom of Information and Privacy Bylaw

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### RECOMMENDATION

That Council direct staff to prepare an updated Freedom of Information and Privacy Bylaw with the changes outlined in this report.

### EXECUTIVE SUMMARY

In 2021, the Province enacted Bill 22, Freedom of Information and Protection of Privacy Act (*FIPPA*), 2021 to make amendments to *FIPPA*. The main changes to the legislation included provisions for the disclosure of personal information outside of Canada, requiring public bodies to have a privacy management program, implementing mandatory privacy breach reporting, introduce offences for evading Freedom of Information (FOI) requests, issuing an application fee for non-personal FOI requests, and adding Indigenous cultural protections.

The City's Freedom of Information Administration Bylaw (**Attachment A**) has not kept up with the legislative changes in *FIPPA* throughout the years. Having been enacted in 1994, only one amendment was made to the Bylaw in 2003, which made minor administrative changes. The Bylaw duplicates many aspects of *FIPPA* and has become significantly outdated as it includes references to repealed sections of *FIPPA*.

Staff have identified the need to update the Bylaw as follows:

#### **Duplication**

The content of the current bylaw significantly duplicates the legislation. Staff recommend removing all duplication to avoid the risk of ongoing outdated content when the Province amends *FIPPA* from the time to time.

#### **Designation of Officers**

The Act requires a public body to designate an officer who will fulfil the responsibilities as "The Head" under the Act. The current bylaw needs revision to clarify staff roles and responsibilities as required by *FIPPA*.

## **Fees**

The current Bylaw sets the City's processing fees as the maximum allowable under Provincial regulation. In 2021, the Province amended the *FIPPA* to allow public bodies to require an application fee for non-personal FOI requests, in addition to the processing fees currently allowed.

As more public bodies implement application fees, the need for the City to maintain consistency with its FOI process with jurisdictions that our departments work and interact with is of increasing importance. If an applicant is seeking records on a topic that the City and another public body have interacted on, but the other public body requires an application fee, the applicant would be more inclined to submit their request to the City to avoid the respective fee, which would then increase the volume of requests for the City.

In addition, implementing an application fee will create an incentive for applicants to first determine if information they are seeking is already publicly available, which allows staff to better allocate resources on FOI requests for information that must be produced under *FIPPA*. Since requests are trending upwards, with 157 received in 2022, 178 in 2023, and 198 as of October 31 in 2024, it is important to ensure that time and resources are spent on our legislative requirements of the *FIPPA* as we are receiving approximately one new request every day.

## **IMPACTS**

### *Accessibility Impact Statement*

An application fee could create a financial barrier for an FOI applicant. Staff are working with departments to make more records available without the need of an FOI request.

### *2023 – 2026 Strategic Plan*

The recommendation has no impact on the Strategic Plan.

### *Impacts to Financial Plan*

The proposed \$10 application fee would minimally offset some costs of administering FOI requests. An incentive for the public to first seek information from already available sources before resorting to the FOI process may help ensure the City can continue to administer its responsibilities under *FIPPA* with current resources.

## **CONCLUSIONS**

The City's FOI and Privacy bylaw needs revision to remove duplication with the provincial legislation and to ensure staff roles and responsibilities, as required by the *FIPPA*, are clearly designated. Introducing an application fee would help the City continue to administer FOI requests with current resources. For the reasons outlined, staff respectfully submit the above recommendation.

Respectfully submitted,

Bradley Cranwell  
Information Access & Privacy Analyst

Curt Kinglsey  
City Clerk

Susanne Thompson  
Deputy City Manager/CFO

**Report accepted and recommended by the City Manager**

**List of Attachments:**

Attachment A: Freedom of Information Administration Bylaw, Bylaw No. 94-193