

COPYRIGHT POLICY

Vaughan Public Libraries respects copyright. Some of the material in the Libraries' collections is subject to copyright held by others. In such cases, there may be restrictions on reproduction. Staff making copies for users are required to abide by the Libraries' policy on "*Copying by and for users*". Staff should consult the *Copyright Act* and seek advice from a supervisor where questions regarding the interpretation of copyright arise. It is not the role of Library staff to interpret the *Copyright Act* for users. Responsibility regarding copyright arising in connection with the use of the copy is the responsibility of the user making the copy, whether the user uses their own or library equipment to make the copy. Vaughan Public Libraries will take reasonable steps to make users aware of the *Copyright Act* (the "Act").

FAIR DEALING: GUIDELINES TO ACCESS

1. Vaughan Public Libraries staff and users may make single copies for specific purposes under the fair dealing provision of the *Copyright Act*.
2. The specific purposes are research, private study, criticism, review or news reporting. Any doubt concerning the legitimacy of staff copying for these purposes will be referred to a Library supervisor.
3. Library staff making a single copy for a user must be satisfied that the copy is requested for research, private study, criticism, review or news reporting. [Note: discuss how will staff be "satisfied?" Necessary because this is essential element of the CCH case].
4. Discretion must be used as to the amount of copying. No copies will be made for any purpose other than research, private study, criticism, review and news reporting. Ordinarily, copies of one article, a portion of a book, one map or one image can be made as a matter of routine. Substantial copying from secondary sources, e.g. in excess of 10% of a book or more than one article from the same journal will be referred to a supervisor and copying may ultimately not be permitted.
5. The Vaughan Public Libraries' copying services, whether the copy is made by Library staff or a patron, are provided without a motive of financial gain. The fee charged is intended to cover a portion of the costs of the Library.

Additional copying is permitted under a license with Access Copyright. See the "**ACCESS COPYRIGHT LICENSE**" section of this policy statement.

DETERMINING IF FAIR DEALING APPLIES

Under Section 29 of the *Copyright Act*, fair dealing for the purpose of research, private study, criticism review and news reporting does not infringe copyright. The Supreme Court of Canada has given “research” a large and liberal interpretation to ensure that users’ rights are not unduly constrained. “Research” includes commercial, non-commercial or private research. The Supreme Court found that fair dealing is a matter of “impression”. The application of fair dealing is therefore not clearly defined. The six following factors were cited by the Supreme Court to help in determining whether a particular dealing is “fair”:

1. *The purpose of the dealing* The purpose of the dealing will be fair if the copying is for one of the allowable purposes, namely research, private study, criticism review or news reporting. These allowable purposes should not be given a restrictive interpretation. What is required is an objective assessment of the real purpose in copying the work.
2. *The character of the dealing* If multiple copies are being widely distributed, this will tend to be unfair. If a single copy is used for a specified legitimate purpose, then it is easier to conclude that it is a fair dealing.
3. *The amount of the dealing* If the amount copied from the work is trivial, it is more likely to be considered fair. However, it may be possible to deal fairly with a whole of certain types of works. For example, there may be no other way to criticize or review a photograph or research a journal article unless the whole work is copied.
4. *The nature of the work* It is more likely to be “fair” to copy a published work as opposed to an unpublished or confidential work.
5. *Available alternatives to the dealing* If there is a non-copyright equivalent to the work that could have been used instead of the copyright work, this may weigh against a finding of fairness.
6. *The effect of the dealing on the work* If the copied work is likely to compete with the market for the original work, this may suggest that the dealing is not fair.

SELF-SERVE COPIES CAN BE MADE BY PATRONS

- *Under fair dealing for the purposes of research, private study, criticism, review or news reporting, in paper or electronic form.* Copying for any other purpose may require the authorization of the copyright owner of the work being copied. In cases where authorization from the copyright owner is required – for example, when a copy is required for publication in a book or on a web site, or for broadcast purposes – the patron must obtain authorization from the copyright holder before a copy can be made. Responsibility regarding copyright arising in connection with the use of the copy is the responsibility of the patron making the copy.
- *Of material in the public domain, in paper or electronic form.* Copyright protection has a set time limit, usually the life of the author plus 50 years. When that time ends, the work falls into the public domain. Works then belong to the public and anyone may use them without permission or the payment of royalties. Examples are works by Shakespeare and music by Mozart.

COPIES CAN BE MADE BY STAFF

Note: The fair dealing provision in the *Act* is technologically neutral. This permits electronic copying. However, other provisions in the *Act* specify that only paper copies may be made.

Electronic copies can be made by staff:

- *Under fair dealing for the purposes of a patron's research, private study, criticism, review and news reporting, in paper or electronic form.* Use for any other purpose may require the authorization of the copyright owner of the work being copied. Responsibility regarding copyright that arises in connection with the use of the copy is the responsibility of the patron making the copy.
- *Of material in the public domain, in paper or electronic form.*
- *To perform any one of six maintenance or management activities: (1) copying rare or unpublished originals, (2) copying fragile originals, (3) copying into an alternative format, (4) copying for record keeping and cataloguing, (5) copying for insurance and police investigations, and (6) copying for restoration.* Making a copy for activities (1), (2) and (3) is not permitted if the work is "commercially available". See Section 30.1 of the *Act*.

Paper copies can be made by staff:

- *Of an article from a scientific, technical or scholarly journal provided the copy is used only for research and private study.* This exception is limited to “reprographic reproduction”, i.e. photocopying. The copy can be made for the Libraries’ own patron or for the patron of another library.
- *Of an article in a newspaper or other periodical if the issue is at least 12 months old at the time of copying and the copy issued for research and private study.* This exception is limited to “reprographic reproduction”, i.e. photocopying. The copy can be made for the Libraries’ own patron or for the patron of another library.

Note: copying beyond these limits may be permitted under the license with Access Copyright. See the “**ACCESS COPYRIGHT LICENSE**” section of this policy.

POST A WARNING ON SELF-SERVICE COPIERS

The Libraries cannot control what is copied on self-serve copying machines. Because of this fact, the *Copyright Act* provides that a library is not legally responsible for what their patrons do on self-serve photocopying machines on their premises, subject to two conditions. First, the library must have a license with Access Copyright. Second, regulations enacted under the *Act* require that a copyright notice, containing at least the following information, be affixed to, or within the immediate vicinity of, every photocopier, in a place and in a manner that is readily visible and legible to persons using the photocopier. Additional information can be added to the warning below if a library thinks it is necessary. See Section 30.3 of the *Copyright Act* and Regulation 8.

WARNING!

Works protected by copyright may be copied on this photocopier only if authorized by:

1. The *Copyright Act* for the purpose of fair dealing or under specific exceptions set out in that *Act*;
2. The copyright owner; or
3. A license agreement between this institution and a collective society or a tariff, if any.

For details of authorized copying, please consult the license agreement or the applicable tariff, if any, and other relevant information available from a staff member.

The Copyright Act provides for civil and criminal penalties for infringement of copyright.

Upon request, the Libraries will make a copy available to patrons of the *Copyright Act* and of the license with Access Copyright.

ACCESS COPYRIGHT LICENSE

The Vaughan Public Libraries has a license with Access Copyright. This license permits copying beyond what is permitted under the *Copyright Act*. Copies can only be made in paper form. A public library may copy up to 10% of a publication or more than 10% if it is:

- An entire chapter from a book;
- An entire short story, play, essay, article or poem (from a publication containing other works);
- An entire periodical or newspaper article, or page;
- An entire entry from an encyclopaedia, dictionary, annotated bibliography, or similar reference work;
- An entire artistic work (drawings, paintings, prints, photographs, and works of sculpture or architecture) reproduced in a book or periodical;
- Copies to replace damaged or missing pages in a publication belonging to the library;
- A single copy of a rare or fragile publication in a library, in order to prevent deterioration (if reasonable efforts were made to purchase a replacement copy and if Access Copyright is notified); and
- A single copy to replace a missing or damaged out-of-print work in a library collection (if reasonable efforts were made to purchase a replacement copy and if Access Copyright is notified).

The above limits on copying are in the 1997 model license between public libraries and Access Copyright. Please ensure that the text is consistent with the license signed by your library. Some variations in copying limits were negotiated in specific jurisdictions.

Other prohibitions and disclaimers with respect to copying by library staff are set out in the Access Copyright's license. An example is record keeping obligations for certain types of copying. Please refer to the copy of the Access Copyright license appended to this policy statement.

EFFECTIVE DATE

This policy is effective May 25, 2006.

URL TO COPYRIGHT ACT

To obtain a copy of the Canadian *Copyright Act*, go to:

<http://laws.justice.gc.ca/e/C-42/index.html>