



**CITY OF KAMLOOPS**

**FREEDOM OF INFORMATION BYLAW NO. 42-4**  
**Effective Date - February 19, 2008**

*Consolidated for Convenience Only*

This is a consolidation of "Freedom of Information Bylaw No. 42-4, 2008". The amendment bylaw listed below has been combined with the original bylaw for convenience only. This consolidation is not a legal document. The original bylaws should be consulted for all interpretations and applications on this subject.

**Amendment Bylaw**

**Effective Date**

Bylaw No. 42-6 - Rate changes

January 13, 2013

The bylaw numbers in the margins of this consolidation refer to the bylaws that amended the principal bylaw "Freedom of Information Bylaw No. 42-4, 2008".

*This is a consolidated bylaw prepared by the City of Kamloops for information only. To verify the accuracy and currency of this information, please contact Legislative Services at 250-828-3483 or email legislate@kamloops.ca.*

CITY OF KAMLOOPS

BYLAW NO. 42-4

A BYLAW FOR THE ADMINISTRATION OF  
THE FREEDOM OF INFORMATION AND  
PROTECTION OF PRIVACY ACT

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WHEREAS, under Section 77 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 *Freedom of Information and Protection of Privacy Act*; and
- (b) 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 municipality; and
- (c) may set any fees the local public body requires to be paid under the *Freedom of Information and Protection of Privacy Act*.

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

- 1. This bylaw may be cited for all purposes as the "City of Kamloops Freedom of Information Bylaw No. 42-4, 2008".
- 2. The City of Kamloops Freedom of Information Bylaw No. 42-2, 1994 is hereby repealed.
- 3. This bylaw is divided into the following divisions:

Division One - Definitions and Interpretation

Division Two - Administrative

Division Three - Powers of Coordinator

    Responding to Requests

    Extension of Time

    Transfer Request

    Information to be Released within 60 days

    Disclosure Harmful to Business Interest of Third Party

    Notification

    Public Interest

    Commissioner's Orders

Division Four - Fees

Division Five - Appendices and Schedules

    Duties of Head

DIVISION ONE - DEFINITIONS AND INTERPRETATION

101. The definitions contained in Schedule 1 of the Act shall apply to this bylaw except where the context requires otherwise.
102. In this bylaw:
- “ACT” means the British Columbia *Freedom of Information and Protection of Privacy Act*, as amended or replaced 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 Division Two of this bylaw as the Information and Privacy Coordinator.
- “Corporate Officer” means the person assigned the responsibility by Council for the responsibility of corporate administration for the City.
- “Council” means the Municipal Council for the City of Kamloops.
- “Day” does not mean a holiday, a Saturday or a Sunday.
- “Enactment” includes statutes, bylaws, codes, regulations, ordinances, proclamations, and any portion thereof.
- “Head” means the person or group of persons designated under Section 77 of the Act as the Head of the municipality and under Division Two of this bylaw.
- “Municipality” means the City of Kamloops.
- “Request” means a request under Section 5 of the Act.
103. If a section, subsection, sentence, clause, or phrase of this bylaw is for any reason held to be invalid by the decision of a court of competent jurisdiction, it shall be severed and such decision shall not affect the validity of the remaining portion of this bylaw.

DIVISION TWO - ADMINISTRATION

201. The Corporate Officer is designated as the Head for the purposes of the *Freedom of Information and Protection of Privacy Act*.
202. The duties and functions of Head which remain those of the Head are set out for reference in Appendix 1 of this bylaw.
203. The Council, by resolution, shall designate an employee to be the Information and Privacy Coordinator for the purpose of the Act.

DIVISION THREE - POWERS OF COORDINATOR

301. The Council hereby authorizes the Coordinator to perform the following duties and exercise the following functions of the Head under the Act:

- a) Responding to Requests
  - (i) The duty to create a record from a machine readable record in the custody or under the control of the municipality using its normal computer hardware and software and technical expertise if creating the record would not unreasonably interfere with the operations of the municipality.
  - (ii) The power to respond to a request except where the Head has the discretion under the Act to determine whether a record shall be released or withheld from disclosure.
  - (iii) The power to respond to a request after the Head has made a decision regarding the disclosure or non-disclosure of a record.
  - (iv) 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.
  - (v) 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.

b) Extension of Time

- (i) The power to extend the time for responding to a request for up to 30 days.
- (ii) The power to apply to the Information and Privacy Commissioner for a longer time period for response to a request where:
  - (A) the applicant does not give enough detail to enable the municipality 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 municipality;
  - (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 Sections 52(2) and 53 of the Act.
- (iii) The power to tell the applicant the reason for an extension, when a response can be expected and that the applicant may appeal the extension under Section 42(2)(b) of the Act where the time for a response to a request has been extended under Section 10(1) of the Act.

c) Transfer Request

- (i) 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 the control of the other public body.
- (ii) The power to notify the applicant of the transfer.

- d) Information to be Released Within 60 Days
- (i) The power to refuse to disclose information under Section 20(1) of the Act where that information is available for purchase by the public.
  - (ii) 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.
- e) Disclosure Harmful to Business Interests of Third Party
- (i) The power to refuse to disclose to an applicant information:
    - (A) that would reveal:
      - 1) trade secrets of a third party; or
      - 2) 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:
      - 1) harm significantly the competitive position or interfere significantly with the negotiating position of the third party;
      - 2) 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;
      - 3) result in undue financial loss or gain to any person or organization; or
      - 4) 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.
  - (ii) The duty to 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.

- (iii) The duty set out in paragraphs (i) and (ii) above 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 Archives of the Government of British Columbia or the archives of a public body and that has been in existence for 50 or more years.

f) Notification

- (i) The power to notify a third party under Section 23(1) of the Act that the Coordinator or Head intends to give access to a record that the Coordinator or 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.
- (ii) The power to notify a third party under Section 23(2) of the Act that 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.

g) Public Interest

The duty to 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.

h) Commissioner's Orders

Not later than 30 days after being given a copy of an order of the Commissioner, the duty to comply with the order, unless an application for judicial review of the order is brought before that period ends, and the duty to comply with any resulting court order.

DIVISION FOUR - FEES

- (42-6) 401. An applicant making a request shall pay to the municipality the fees set out in the *Freedom of Information and Protection of Privacy Act* Regulations for the following services:
- a) locating, retrieving and producing the record;
  - b) preparing the record for disclosure;
  - c) shipping and handling the record; and
  - d) providing a copy of the record.

DIVISION FIVE - APPENDICES AND SCHEDULES

The following appendices and schedules are attached to and form part of this bylaw and apply and are enforceable in the same manner as this bylaw:

Appendix 1 - Duties of Head

ORIGINAL SIGNED BY T. LAKE  
MAYOR

ORIGINAL SIGNED BY L. W. HRYCAN  
CORPORATE OFFICER



## APPENDIX "1"

## DUTIES OF THE HEAD OF THE MUNICIPALITY UNDER THE ACT AND THIS BYLAW

<u>Section</u>	<u>Description</u>
6(1)	The duty to assist applicants.
12.3	The power to refuse to disclose to an applicant information that would reveal: <ul style="list-style-type: none"><li>(a) a draft of a resolution, bylaw or other legal instrument by which the municipality acts or a draft of a private bill; or</li><li>(b) the substance of deliberations of a meeting of its elected officials or of its governing body or a committee of its governing body, if this Act or a regulation under this Act or any other Act authorizes the holding of that meeting in the absence of the public.</li></ul>
13	The power to refuse to disclose information that would reveal advice or recommendations developed by or for a public body or a minister.
14	The power to refuse to disclose information that is subject to solicitor/client privilege.
15	The power to refuse to disclose information if the disclosure could reasonably be expected to harm a law enforcement matter or that could reasonably be expected to cause any of the other results set out in Section 15 of the Act.
16	The power to refuse to disclose information if the disclosure could reasonably be expected to be harmful to intergovernmental relations or negotiations, in accordance with Section 16 of the Act.
17(1)	The power to refuse to disclose information which could reasonably be expected to harm the financial or economic interests of a local public body or the government of British Columbia or the ability of that government to manage the economy in accordance with Section 17 of the Act.
17(2)	The power to refuse to disclose research information, in accordance with Section 17(2) of the Act.
17(3)	The power to refuse to disclose the results of a product or environmental testing that was done for a fee as a service to a person, group of persons, or an organization other than a public body, or for the purpose of developing methods of testing.
18	The power to refuse to disclose information if the disclosure could reasonably be expected to result in damage to, or interfere with the conservation of, any of the things referred to in Section 18 of the Act (heritage sites, endangered species, etc.).

<u>Section</u>	<u>Description</u>
19(1)	The power to refuse to disclose information, including personal information about an applicant, where the disclosure could reasonably be expected to threaten anyone else's safety or mental or physical health or interfere with public safety, in accordance with Section 19(1) of the Act.
19(2)	The power to refuse to disclose to an applicant personal information about the applicant if the disclosure could reasonably be expected to result in immediate and grave harm to the applicant's safety or mental or physical health, in accordance with Section 19(2) of the Act.
22	The duty to refuse to disclose personal information if disclosure would be an unreasonable invasion of a third party's personal privacy, in accordance with Section 22 of the Act.
24	The duty to make a decision and to give written notice of a decision under Section 24 of the Act.
30	The duty to protect personal information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal.
33.1&33.2	The duty to ensure that personal information in the municipality's custody or under its control is disclosed only as permitted under Sections 33.1 or 33.2 of the Act.
70	The duty to make available to the public manuals, instructions or guidelines issued to the officers or employees of the public body or substantive rules or policy statements adopted by the public body in accordance with Section 70 of the Act.
71	The power to prescribe categories of records that are in the custody or under the control of the public body and that are available to the public on demand without request for access under the Act, to require persons who ask for a copy of an available record to pay a fee to the public body in accordance with Section 71 of the Act.
75(5)	The power to excuse an applicant from paying all or part of a fee if, in the Head's opinion, the applicant cannot afford the payment or for any other reason it is fair to excuse payment where the record relates to a matter of public interest, including the environment or public health or safety.

[NOTE: While the list of powers and duties set out above represents those powers and duties which the Coordinator is not specifically granted, in practice many of the duties will actually be fulfilled by staff acting on behalf of the Head, such as the duty under Section 70 to make available to the public manuals, instructions or guidelines.]