



BY-LAW

NO. 2024 –

**Being a By-law to Adopt a Routine Disclosure and Active Dissemination Policy
for The Corporation of the Municipality of Kincardine**

Whereas pursuant to the said Municipal Act, Sections 8 and 9 provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act; and

Whereas Section 270 (1) of the Municipal Act 2001, S.O. 2001, c. 25, as amended, requires a municipality to adopt and maintain a policy with respect to the manner in which the municipality will try to ensure that it is accountable to the public for its actions, and the manner in which the municipality will try to ensure that its actions are transparent to the public; and

Whereas the Council of the Corporation of the Municipality of Kincardine desires to adopt a new Routine Disclosure and Active Dissemination Policy; now therefore be it

Resolved that the Council of The Corporation of the Municipality of Kincardine **Enacts** as follows:

1. That the Routine Disclosure and Active Dissemination Policy for The Municipality of Kincardine, attached hereto as Schedule 'A' and forming part of this By-law be adopted.
2. That this By-law shall come into full force and effect upon its final passing.
3. That all other Policies passed by By-law and Resolution inconsistent with this By-law, be repealed.
4. That By-law may be cited as the "Routine Disclosure and Active Dissemination Policy By-law".

Read a First, Second and Third Time and Finally passed this 26th day of June, 2024.

Mayor

Clerk

Policy No.: LS.04

Section: Your Government and People

Policy Title: Routine Disclosure and Active Dissemination Policy

Adopted Date:

By-law No.:

Revision Date:

1. Purpose

The Municipality of Kincardine (the Municipality) is committed to improving customer service and streamlining the process of public access to records and information.

The purpose of this policy is to provide guidelines for dealing with public requests for municipal records and information by the Municipality of Kincardine.

The Routine Disclosure and Active Dissemination Policy clearly identifies types of records that can be released, subject to the appropriate conditions, without requiring a Freedom of Information (FOI) request.

The goals of this Policy include, but are not limited to, the following:

- To improve public accessibility to Records and Information;
- To improve transparency and accountability through streamlining the access to Information process;
- To aid departments in adhering to Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) requirements;
- To reduce staff time and costs in responding to FOI requests;
- To identify records and information that are of interest to the public; and
- To ensure the protection of Personal and Confidential Information in accordance with the Municipal Act and the MFIPPA.

2. Scope

This policy applies to all Members of Council, staff, volunteers, and members of all committees and boards.

It applies to all records in the custody and/or under the control of the Municipality. This policy does not apply to records or information subject to the exemptions outlined in MFIPPA.

The Municipality will not disclose personal or confidential information through the Routine Disclosure or Active Dissemination process. Requests for personal or confidential information must be submitted through the FOI request process.

This policy shall be interpreted in a manner that is consistent with the Municipality's obligations under MFIPPA and related Municipal records policies.

3. Definitions

“Active Dissemination” means the periodic release or publication of municipal records and information in the absence of a formal request.

“Confidential Information” means any information that is subject to the exemptions to disclosure found in MFIPPA or the Municipal Act, and that, if disclosed, could result in loss or damage to the Municipality or could give the person who it is disclosed an advantage. Includes information received in confidence to the Municipality.

“Control” of a record means the power or authority to make a decision about the use or disclosure of a record.

“Custody” of a record means the keeping, care, watch, preservation or security of a record for a legitimate business purpose. Physical possession of a record may not always constitute custody.

“Freedom of Information” or “FOI” means a formal request made in writing addressed to the Municipality under Municipal Freedom of Information and Protection of Privacy Act.

“MFIPPA” means the Municipal Freedom of Information and Protection of Privacy Act.

“Municipality” means The Corporation of the Municipality of Kincardine.

“Official Record” means recorded information in any format that provide evidence of the Municipality’s decisions and decision-making policies, procedures, services, operations (including transactions, activities, etc.).

“Personal Information” has the same meaning as in MFIPPA and means recorded information about an identifiable individual, including,

- a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual;
- b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;
- c) any identifying number, symbol or other particular assigned to the individual;
- d) the address, telephone number, fingerprints or blood type of the individual;
- e) the personal opinions or views of the individual except if they relate to another individual;
- f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence;
- g) the views or opinions of another individual about the individual; and

- h) the individual's name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual.

“Record” has the same meaning as in MFIPPA and means any record of information however recorded, whether in print form, on film, by electronic means or otherwise, and includes,

- a) correspondence, a memorandum, a book, a plan, a map, a drawing, a diagram, a pictorial or graphic work, a photograph, a film, a microfilm, a sound recording, a videotape, a machine readable record, any other documentary material, regardless of physical form or characteristics, and any copy thereof; and
- b) subject to the regulations, any record that is capable of being produced from a machine readable record under the control of an institution by means of computer hardware and software or any other information storage equipment and technical expertise normally used by the institution; (“document”).

“Retention Period” means the period in which records must be kept by the Municipality before they can be disposed of in accordance with the Municipality's Records Retention Schedule as amended from time to time.

“Routine Disclosure” means the routine or automatic release of certain records and information in response to information requests not made under MFIPPA.

“Staff” means all full-time, part-time, temporary, seasonal, students and staff hired on a contract basis for a defined period of time, of the Municipality.

“Third Party Information” means personal information or a person other than the requestor or scientific, technical, commercial, financial, or labour relations information supplied in confidence by someone other than the requestor or the Municipality of Kincardine.

4. Responsibility

The Manager of Legislative Services/Clerk is overall responsible for this policy and will work closely with other departments, Council and advisory committees and local boards during its implementation.

It is the responsibility of all staff members of the Municipality of Kincardine to understand and follow the Routine Disclosure and Active Dissemination Policy when records are being requested.

Requests for information subject to this Policy will be directed to the applicable department for response. Each department will utilize Schedule A “Records Available Via Routine Disclosure and Active Dissemination” to properly identify records and information that may be released and under what conditions.

Applicable departments will acknowledge and respond to requests made under the Routine Disclosure and Active Dissemination Policy within a reasonable timeframe subject to staff workload.

5. Procedure/ Policy

a. Requests for Routine Disclosure

- i. Requests for records or information made under this policy should be directed to the department responsible for the records (Responsible Department).
- ii. Records or information identified in Schedule A “Records Available Via Routine Disclosure and Active Dissemination” may be provided to the public directly by the department responsible for those records, in accordance with the conditions outlined in this Policy and any appropriate legislation.
- iii. Records containing personal or confidential information will not be disclosed to anyone other than the party to whom the information pertains unless authorized by this Policy, a by-law or applicable legislation.
- iv. Requests may be submitted verbally or in writing. However, the Municipality reserves the right to require that the request be submitted in writing where the request is unclear or where the information being requested is of a personal, confidential, detailed or sizable nature (e.g. will involve excessive staff search time and/or result in the scanning or copying of more than 100 pages).
- v. When a request must be submitted in writing, the requestor must utilize the Request for Routine Disclosure of Records Form created by the Legislative Services Department and address it to the attention of the responsible department.
- vi. Despite subsection 5 a (i), the Municipality reserves the right to require at any time that requesters make their requests through a single point of contact as determined by the Municipality.
- vii. If an individual requests records or information pertaining to themselves or their property through routine disclosure, Staff shall confirm their identity through government issued photo identification prior to releasing the records.
- viii. Despite subsection 5 a (vii), Staff may release Information to an authorized agent of the individual provide authorization is received in writing.
- ix. Fees, per the Rates and Fees By-law, may be charged for the reproduction of records released as well as time spent by Staff searching for and processing records in response to a request.
- x. Municipal Records are disposed of in accordance with the Municipality of Kincardine’s Records Retention By-law. The Municipality is not

required to re-create or restore records that have been appropriately destroyed.

- xi. The Municipality is not required to provide information discussed but not recorded or create information that does not otherwise exist.
- xii. Staff will endeavour to complete requests for records and information made under this policy within 30 calendar days.
- xiii. In cases where the request cannot be completed within 30 calendar days, the requestor will be notified and provided with an estimated timeline for response.
- xiv. The Municipality has the authority to deny any request for routine disclosure or active dissemination and/or withhold portions of any requested record, as permitted under MFIPPA.
- xv. If a request for routine disclosure is denied, the requestor must be informed of their right to submit an FOI request.
- xvi. Staff shall direct a requestor to make an FOI request if:
 - a) Records relate to a matter that may result in litigation;
 - b) Records are supplied by a third party;
 - c) Records contain solicitor-client information;
 - d) Records contain personal information for individuals other than the requester; and/or
 - e) Records contain other confidential information.
- xvii. Requests that are repetitive and substantial, small numerous requests or requests made to various departments for the same information, will be directed to the Manager of Legislative Services/Clerk or their designate.
- xviii. If Staff receives a request for records or information and are unsure of whether they can be released under this Policy, they should consult with the Manager of Legislative Services/Clerk or their designate prior to releasing any records or information to the requestor.

b. Members of Council

A Member of Council requesting access for Records or Information through this policy will be provided the same right of access as the public. If the requested records or information are not available for Routine Disclosure or Active Dissemination, the Council Member may submit an FOI request and the Manager of Legislative Services/Clerk will apply MFIPPA in the normal manner to determine whether access may be granted.

c. Active Dissemination

The Municipality uses the Municipality's website, social media accounts, publications, and local media regularly and periodically to actively disseminate information to the public.

A list of records and information that may be released under active dissemination is contained in Schedule A “Records Available Via Routine Disclosure and Active Dissemination”.

Records that have been identified for active dissemination can be made available using the most appropriate method, as determined by the department in consultation with the Communications Coordinator and Manager of Legislative Services/Clerk or their designates as appropriate.

d. Requests from Law Enforcement Agencies

The Manager of Legislative Services/Clerk or their designate will be responsible for acknowledging and responding to requests for records from law enforcement agencies.

e. Accessible Formatting

The Municipality will make every attempt to provide requested records and information in an accessible format.

Applicants may contact the Municipality if an alternative format is required.

f. Freedom of Information Requests

All FOI requests submitted to the Municipality shall be directed to the Manager of Legislative Services/Clerk for processing, in accordance with the MFIPPA.

6. Related Policies

- a) By-law No. 2019-031 Record Retention By-law
- b) Records and Information Management Policy GG.3.12

7. Related Documents/Legislation

- a) Municipal Act, 2001, S.O. 2001, c. 25
- b) Municipal Freedom of Information and Protection of Privacy Act.

Schedule A: Records Available Via Routine Disclosure and Active Dissemination

This listing identifies Records and Information that may be released under either routine disclosure or active dissemination by the Municipality of Kincardine. This listing may not be exhaustive or complete and may be updated at any time by the Manager of Legislative Services/Clerk in consultation with the relevant department.

AD = Active Dissemination (e.g. posting on website, pamphlets, social media, etc.)

RD = Routine Disclosure (e.g. Information Records request submitted verbally or in writing using the appropriate request form)

- See attached spreadsheet