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KWANLIN DÜN FIRST NATION

ORDER IN COUNCIL

ORDER IN COUNCIL TITLE:
INTRODUCTION AND FIRST READING OF THE BILL ENTITLED FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY (KWANLIN DÜN FIRST NATION)

THE COUNCIL ORDERS THAT

1. Pursuant to paragraph 49(1)(a) of the *Constitution of the Kwanlin Dün First Nation* (the "Constitution"), the Bill entitled Freedom of Information and Protection of Privacy (Kwanlin Dün First Nation) (the "Bill"), attached to this Order and marked as Schedule 'A', dated the 9th day of July, 2025, and as recommended on the 20th day of March, 2025 by the Standing Committee on Legislative and Policy Development, be introduced for the first reading and later consideration; and

2. Pursuant to paragraph 49(1)(b) of the Constitution, a notice, attached to this Order as Schedule B, pertaining to the Bill shall be published and copies of the Bill be made available to and informing the Citizens of the Kwanlin Dün First Nation how they can submit their opinions concerning the Bill.

The Seal of the Kwanlin Dün First Nation

Chief Sean Smith

CERTIFIED AND DEPOSITED
IN THE KWANLIN DÜN FIRST NATION
REGISTRY OF LAWS AND POLICIES

2025 08 08
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Executive Council Office

Schedule 'B'

(OIC-2025-47)

NOTICE TO THE CITIZENS OF THE KWANLIN DÜN FIRST NATION CONCERNING THE BILL ENTITLED THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

PLEASE TAKE NOTICE THAT:

A. On the 9th day of July, 2025, the Council, pursuant to paragraph 49(1)(a) of the *Constitution of the Kwanlin Dün First Nation,* introduced for the first reading and later consideration the Bill entitled the Freedom of Information and Protection of Privacy Act (Kwanlin Dün First Nation (the "Bill").

B. Copies of the Bill are available to the citizens of Kwanlin Dün First Nation at the Kwanlin Dün First Nation main administration office located at 35 McIntyre Drive, City of Whitehorse, Yukon Territory. Citizens who wish to submit their opinions concerning the Bill may do so in writing by delivering their opinions to the attention of the Chief on or before the 31st day of August, 2025.

C. Subsection 49(2) of the *Constitution of the Kwanlin Dün First Nation* provides that if at least twenty-five citizens submit a Citizens Order to the Council to hold a public hearing regarding the Bill the Council must hold such a hearing before considering the Bill and must consider a report from the public hearing during the course of its debate on the general purpose and the details of the Bill.

KWANLIN DÜN FIRST NATION

Freedom of Information and Protection of Privacy Act

_____ 2025

For the First Reading by the Council
on this 9th day of July, 2025

Kwanlin Dün First Nation

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

Enacted on this _____ day of _____ 2025

The Seal of the
Kwanlin Dün First Nation

_____
Chief Sean Smith

_____
Councillor Jolene Smarch

_____
Councillor Linda Moen

_____
Councillor Charlene Charlie

_____
Councillor Jess Ryder

_____
Councillor Ray Sidney

_____
Councillor Charles Chief

The Council of the Kwanlin Dün First Nation hereby enacts as follows:

Definitions

1. In this Act and any regulations made or forms prescribed hereunder

"access" means access to the information as provided in accordance with Section 18;

"applicant" means a person who has submitted an access request;

"contact information" means information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual;

"Beneficiary " has the same meaning as assigned to it by the Final Agreement;

"business day" means a day other than Saturday, Sunday or any day in which the Kwanlin Dün First Nation is closed for business;

"Canada" means the Government of Canada;

"Citizen" has the same meaning as assigned to it by the *Constitution of the Kwanlin Dün First Nation*;

"collecting" of personal information, includes gathering, acquiring, receiving, or obtaining personal information, but does not include the use, disclosure or management of the personal information;

"consent" means voluntary agreement in the form provided in the Regulations, and where the context permits means the power to give, refuse and withdraw consent;

"constitution" means the *Constitution of the Kwanlin Dün First Nation*;

"Council" has the same meaning as assigned to it by the constitution;

"Director" means the head of an administrative department of the Kwanlin Dün First Nation, regardless of whether that department is established by law;

"Elders Council" has the same meaning as assigned to it by the constitution;

"employee" means an individual
(a) employed by or volunteering for the Kwanlin Dün First Nation, or

"Executive Director" or their designate, means the employee of the Kwanlin Dün First Nation who is engaged as the senior administrative officer of the Kwanlin Dün First Nation;

"final agreement" means the land claim agreement entered into by the Kwanlin Dün First Nation, Her Majesty the Queen in Right of Canada and the Government of Yukon, brought into legal effect on April 1, 2005;

"government" means any level of public government including that of the Kwanlin Dün First Nation;

"*Health Information Privacy and Management Act*" is the law in Yukon, Canada that protects the privacy of individuals' health information and their right to access it;

"Judicial Council" has the same meaning as assigned to it by the constitution;

"Kwanlin Dün First Nation" has the same meaning as assigned to it by the constitution;

"Kwanlin Dün First Nation law" includes the constitution and every act or regulation enacted under the constitution;

"law enforcement" means
(a) policing, including criminal intelligence operations,
(b) investigations or legal proceedings that lead or could lead to a penalty or punishment being imposed or an order made under a Kwanlin Dün First Nation law or a law of Canada or the Yukon,

(c) investigations and proceedings taken or powers exercised for the purpose of requiring or enforcing compliance with the law;

"personal information" means recorded information about an identifiable individual other than contact information;

"personal health information" has the same meaning as in the *Health Information Privacy and Management Act*;

"privacy breach" means the theft or loss, or the collection, use or disclosure that is not authorized by this Part, of personal information in the custody or under the control of the Kwanlin Dün First Nation;

"public body" means a department, secretariat or other similar executive agency of Canada, province or a territory, a municipal government, or a First Nation government.

"Privacy Officer" means the position designated by the Executive Director with responsibility for carrying out the duties of Privacy Officer under this Act;

"public officer" means an employee or officer of the Kwanlin Dün First Nation and includes the Chief and any other Councillor;

"qualifying person" means an individual who has a direct and significant interest in or whose interests might reasonably be directly and significantly affected by information contained in a record in the custody or control of the Kwanlin Dün First Nation as determined by the Privacy Officer;

"record" includes books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by graphic, electronic, mechanical or other means, but does not include a computer program or any other mechanism that produces records;

"regulations" means the regulations established under Section 53;

"self-government agreement" means the self-government agreement entered into by the Kwanlin Dün First Nation, Her Majesty the Queen in Right of Canada and the Government of Yukon, brought into legal effect on April 1, 2005;

"third-party", in relation to an application for access to a record or a request for correction of personal information, means any person other than
(a) the person who made the application or request, or
(b) the Kwanlin Dün First Nation;

"Yukon" means the Yukon Territory as defined in the *Yukon Act* (Canada); and

"Youth Council" has the same meaning as assigned to it by the constitution.

PART ONE
GENERAL PROVISIONS

Purpose of this Act

2. (1) The purpose of this Act is to make the Kwanlin Dün First Nation more accountable to its Citizens and Beneficiaries and to protect personal privacy by

(a) giving the Citizens and Beneficiaries and qualifying persons a right of access to records,

(b) giving individuals a right of access to, and a right to request correction of, personal information about themselves,

(c) specifying limited exceptions to the right of access,

d) preventing the unauthorized collection, use, or disclosure of personal information by the Kwanlin Dün First Nation, and

(e) providing for a review of decisions made under this Act.

(2) This Act shall be interpreted in a manner that is consistent with the needs of the Kwanlin Dün First Nation to proceed in an efficient and effective manner that achieves the purpose of this Act at reasonable cost.

Scope of this Act

3. (1) Subject to this Section, this Act applies to records in the custody or under the control of the Kwanlin Dün First Nation.

(2) Subject to subsection (3), this Act does not apply to personal health information or records that are subject to the *Health Information Privacy and Management Act* (Yukon).

(3) Paragraphs 30(1)(a), (b), (c), (d), (e), (f), (g), (h), (i) and (j) of this Act apply despite anything in the *Health Information Privacy and Management Act* (Yukon) providing otherwise.

(4) This Act does not limit any of the following:
(a) the information available by law to a party to a judicial or administrative proceeding under Kwanlin Dün First Nation, federal or territorial law or otherwise by law; and
(b) the right of Kwanlin Dün First Nation to provide its Citizens and Beneficiaries with reasonable access to information, other than personal information and information protected under Section 31, that it decides to make available to the public by way of routine disclosure.

(5) This Act does not apply to any of the following:
(a) a record filed in judicial or adjudicative proceedings;
(b) a personal note or communication or the draft decision of a person acting in a judicial or adjudicative capacity;
(c) a record in the custody or control of a public officer appointed in connection with the conduct of an election or referendum pursuant to the constitution.

(d) records or information that would reveal the substance of deliberations of a meeting of Council or a committee of Council, if an Act or a regulation under this Act authorizes the holding of that meeting in the absence of the public.

(e) a record of a question that is to be used on an examination or test;
(f) a record containing teaching materials or research information of employees of an educational body;
(g) a record relating to a prosecution if all proceedings with respect of that prosecution have not been completed.
(h) a record that is available for purchase from the Kwanlin Dün First Nation;
(i) a record that does not relate to the business of the Kwanlin Dün First Nation;
(j) a record of metadata that
    (i) is generated by an electronic system, and
    (ii) describes an individual's interaction with the electronic system;
(k) an electronic record that has been lawfully deleted by an employee of the Kwanlin Dün First Nation and can no longer be accessed by the employee.

(6) Except for an individual's right to view and obtain a copy of personal information about that individual, Part 5 of this Act only applies to records created by, or coming into the custody or control of the Kwanlin Dün First Nation, on or after the 19th day of February 2005.

Application

4. If there is a conflict between this Act and any other Kwanlin Dün First Nation law enacted before or after this section comes into force, this Act prevails unless the other law expressly provides that it applies, in whole or in part, notwithstanding this Act.

Limitation of liability

5. No action and no proceeding may be brought against the Kwanlin Dün First Nation, the Council, or other person acting on behalf of or under the direction of the Kwanlin Dün First Nation for damages caused by
(a) in the absence of bad faith, the disclosure of, or failure to disclose, a record which may include personal information under this Act; or
(b) in the absence of bad faith or gross negligence, the failure to give any notice required under this Act.

Designation of Privacy Officer

6. (1) The Kwanlin Dün First Nation shall designate an employee as a Privacy Officer.
(2) The Director of the Department of Governance may
    (a) designate one employee as a Privacy Officer;

PART TWO
COLLECTION, PROTECTION AND RETENTION OF PERSONAL INFORMATION

Purpose for which personal information may be collected

7. Personal information shall not be collected by the Kwanlin Dün First Nation unless
(a) the collection of that information is authorized under Kwanlin Dün First Nation law;
(b) that information is collected for the purposes of law enforcement;
(c) that information is collected for the purpose of planning and evaluation
(d) that information relates directly to, and is necessary or beneficial for, the operation of the Kwanlin Dün First Nation, including the operation of a program or service delivered by the Kwanlin Dün First Nation; or
(e) that information is collected by observation at an event
(i) at which the individual voluntarily appears, and
(ii) that is open to all Citizens or Beneficiaries.

How personal information is to be collected

8. (1) The Kwanlin Dün First Nation shall collect personal information or cause personal information to be collected directly from the individual the information is about, unless
(a) another method of collection is authorized by
(i) that individual, or
(ii) another law of the Kwanlin Dün First Nation authorizes the collection;
(b) the collection of the information is necessary or beneficial for the medical treatment of the individual and it is not possible
(i) to collect information directly from that individual, or
(ii) to obtain authority under sub-paragraph (a)(i) for another method of collection;
(c) the information is collected for the purposes of
(i) determining suitability of an individual for an honour or award,
(ii) a proceeding before the Judicial Council or an adjudicative body,
(iii) collecting a debt or fine or making a payment, or
(iv) law enforcement;
(v) reducing the risk that an individual will be a victim of domestic violence, if domestic violence is reasonably likely to occur.
(d) the personal information is provided by Canada, Yukon or another government; or
(e) the collection of information directly from the individual might reasonably be expected to result in inaccurate or misleading information or would defeat the purpose or prejudice the use for which the information is collected.
(f) the information is for the purposes of establishing, managing, or terminating the employment relationship of an employee.
(g) the information is legally required for an investigation or legal proceeding.

(2) The Kwanlin Dün First Nation shall take reasonable steps to notify an individual from whom it collects personal information or causes personal information to be collected
(a) the purpose for collecting it;
(b) the legal authority for collecting it; and
(c) who can answer the individual's questions about the collection.

(3) Subsection (2) does not apply if
(a) the information is related to law enforcement;
(b) complying with it would

(i) result in collection of inaccurate information, or

(ii) defeat the purpose or prejudice the use for which the information is collected; or

(c) an exception under subsection (1) applies.

(4) Personal information is not collected for the purposes of the Act, if the KDFN receives unsolicited information unrelated to its programs or activities, takes not action with respect to it and deletes it.

Accuracy of personal information

9. If an individual's personal information is in the custody or under the control of the Kwanlin Dün First Nation, the Kwanlin Dün First Nation shall make reasonable efforts to ensure that the information is accurate and complete.

Right to request correction of personal information

10. (1) An individual who believes that there is an error or omission in their personal information may request in writing that the Privacy Officer correct the information and the Privacy Officer may correct the information if they reasonably believe that the correction is necessary.

(2) A request made pursuant to subsection (1) shall set out sufficient particulars and other documentation to allow the Privacy Officer to determine the merits of the request.

(3) In considering a request made pursuant to subsection (1), the Privacy Officer may make any further enquiries that will allow the Privacy Officer to assess the merits of the request.

(4) The Privacy Officer shall notify the individual making the request whether the request has been accepted and, if it has not been accepted, provide reasons.

(5) A notation shall be made on the record containing the personal information where a request for the correction has been made under subsection (1) but no correction has occurred.

(6) If a request to correct a record has been accepted, the Privacy Officer shall notify each third party to whom the personal information has been disclosed during the year before the correction was requested.

Protection of personal information

11. The Kwanlin Dün First Nation shall protect the personal information in its custody or under its control by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal.

Unauthorized disclosure prohibited

12. A public officer of the Kwanlin Dün First Nation who has access to personal information in the custody or under the control of the Kwanlin Dün First Nation shall not disclose that information except as authorized by this Act.

Notification of unauthorized collection, use, and disclosure

13. A public officer who believes that personal information in the custody or under the control of Kwanlin Dün First Nation has been collected, used, or disclosed without authorization under this Act shall immediately notify the Privacy Officer of the particulars giving rise to that belief.

Privacy breach notifications

14 (1) If a privacy breach involving personal information in the custody or under the control of the Kwanlin Dün First Nation occurs, the Privacy Officer must, without unreasonable delay,

(a) notify an affected individual if the privacy breach could reasonably be expected to result in significant harm to the individual, including identity theft or significant

(i) bodily harm,
(ii) humiliation,
(iii) damage to reputation or relationships,
(iv) loss of employment, business or professional opportunities
(v) financial loss,
(vi) negative impact on a credit record, or
(vii) damage to, or loss of, property, and

(2) The Privacy Officer is not required to notify an affected individual under subsection (1) if notification could reasonably be expected to

(a) result in immediate and grave harm to the individual's safety or physical or mental health, or

(b) threaten another individual's safety or physical or mental health.

(3) A notification under subsection (1) (a) must be made in accordance with the regulations.

PART THREE
USE AND DISCLOSURE OF PERSONAL INFORMATION

Use of personal information

15. (1) The Kwanlin Dün First Nation may use the personal information in its custody or under its control only if and to the extent

(a) it is used for the purpose for which that information was obtained, collected or compiled, or for a use consistent with that purpose;

(b) the individual to whom the information pertains has consented to the use of that information;

(c) it is contact information for a Citizen or a Beneficiary; to be used for contact purposes

(d) it is used for the purpose of determining an individual's suitability or eligibility for a

program or benefit offered by Kwanlin Dün First Nation, including determining if an individual remains eligible or suitable for a program or benefit in which that individual is already participating;

(e) it is used by a lawyer in connection with the provision of legal services to the Kwanlin Dün First Nation;

(f) it is used for archival purposes;

(h) it is used for the purpose of evaluating, planning, or developing a project, program, service, policy, law or other matter affecting the activities of Kwanlin Dün First Nation, provided that there is no practical alternative to the use of that personal information and, before using it for that purpose, the personal information is anonymized or removed;

(i) for the purpose of managing or administering employees of the Kwanlin Dün First Nation;

(2) Kwanlin Dün First Nation will use personal information that it collects in a reasonable manner.

Disclosure of personal information

16. (1) The Kwanlin Dün First Nation shall ensure that personal information in its custody or under its control is disclosed only as permitted under this section.

(2) The Kwanlin Dün First Nation may disclose personal information in its custody or under its control if it is disclosed

(a) in accordance with Part Five;

(b) for the purpose for which the personal information was obtained, collected, or compiled or for a use consistent with that purpose;

(c) with the written consent of the individual to whom the information pertains;

(d) in accordance with any law to which the Kwanlin Dün First Nation is subject;

(e) in accordance with a provision of an arrangement or agreement that

(i) authorizes or requires its disclosure, and

(ii) is made under a Kwanlin Dün First Nation law or is authorized by the Council;

(f) to comply with a subpoena, warrant or order issued or made by a court, person or body with jurisdiction to compel production of information;

(g) to a public officer of the Kwanlin Dün First Nation if the information is necessary for the performance of the duties of that public officer

(g) in order to assist law enforcement, including investigations and crime prevention;

(h) for the purpose of

(i) determining the amount of or collecting a fine, debt, tax or payment owing by an individual to the Kwanlin Dün First Nation, or to an assignee of it, or

(ii) making a payment owed to an individual by the Kwanlin Dün First Nation;

(i) where reasonable to protect the mental or physical health or safety of any individual;

(j) so that a spouse, relative or a friend of an injured, ill or deceased individual may be contacted;

(k) to the Auditor General or any other person or body for audit purposes;

(l) provided that the information was collected at an event

(i) at which the individual voluntarily appears, and has consented in the prescribed manner

(ii) that is not private in nature.

(m) if the disclosure is necessary for

(i) installing, implementing, maintaining, repairing, troubleshooting or upgrading an electronic system or equipment that includes an electronic system, or

(ii) data recovery that is undertaken following the failure of an electronic system.

(n) to an employee or service provider to Kwanlin Dün First Nation where reasonable required to their duties and responsibilities;

(o) if reasonably required for an investigation or legal proceeding involving Kwanlin Dün First Nation

(p) to a lawyer in connection with the provision of legal services to Kwanlin Dün First Nation.

(3) If a disclosure of information for a specific statistical or research purpose is in the interest of the Kwanlin Dün First Nation and there is no alternative to disclosing the information in individually identifiable form, the Council may authorize the disclosure, subject to any restrictions or conditions that the Council deems necessary.

(4) The Kwanlin Dün First Nation may disclose personal information that is in its custody or under its control for archival purposes if

(a) the disclosure would not be an unreasonable invasion of personal privacy under section 32;

(b) the disclosure is for historical research and is in accordance with subsection (3);

(c) the information is in a record that has been in existence for 100 or more years; or

(d) the information is about a person who has been deceased for 20 or more years.

17. For the purposes of sections 15 and 16, a use of personal information is consistent with the purposes for which the information was obtained or compiled if the use

(a) has a reasonable and direct connection to that purpose; and

(b) is reasonably required for the performance of statutory duties and functions, or for the operation of a lawful program of the Kwanlin Dün First Nation or the public body to which the information is disclosed.

PART FOUR
PUBLIC INTEREST DISCLOSURE

Public interest disclosure obligations

18. (1) Whether or not an application for access to a record is submitted to the Privacy Officer, the Kwanlin Dün First Nation shall, without delay, disclose to the public, to an affected group of people, or to an applicant, information about a risk of significant harm to the environment or to public health or safety.

(2) Subsection (1) applies despite any other provision in this Act.

(3) Before disclosing information under subsection (1), the Privacy Officer shall

(a) if feasible, notify any third party to whom the information relates; or

(b) if notification of a third party is not feasible, mail a notice of disclosure to the last known address of the third party.

PART FIVE

FREEDOM OF INFORMATION

Right of access to information

19. An individual is entitled to view and obtain a copy of a record containing personal information about themselves that is in the custody or under the control of the Kwanlin Dün First Nation. The right of access to a record does not extend to information that is excepted from disclosure under Sections 30, and 31.

20. (1) A Citizen, a Beneficiary, or qualifying person is entitled to view and obtain a copy of any record that is in the custody or control of the Kwanlin Dün First Nation. The right of access to a record does not extend to information that is excepted from disclosure under Sections 30, 31, and 32.

(2) The Privacy Officer may determine whether a person is a qualifying person.

21. The right of access to a record

(a) is subject to the provisions of any information sharing agreement between the Kwanlin Dün First Nation and another entity that is made under a Kwanlin Dün First Nation law or authorized by the Council;

(b) does not extend to records excepted from disclosure under section 30, 31, and 32 but if the information giving rise to the exception from disclosure can reasonably be severed from a record, an applicant has the right of access to the remainder of the record;

(c) is subject to the payment of any fee that may be required by regulation.

How to make an application

22. (1) To obtain access to a record, a person shall submit a written application to the Privacy Officer that provides

(a) sufficient particulars and supporting documentation as may be required to reasonably allow the Privacy Officer to identify the record sought; and

(b) if the applicant's entitlement to make the application arises under section 19 and the applicant is not a Citizen or Beneficiary, sufficient detail for the Privacy Officer to determine whether the applicant is a qualifying person.

(2) The applicant may ask for a copy of the record or ask to examine the record.

(3) An application under subsection (1) may be made on behalf of another person or that other person's estate if the applicant provides written proof, satisfactory to the Privacy Officer, of the applicant's legal authority to represent that other person or that other person's estate, or with the explicit consent of the person that the information is about.

Power to disregard requests

23. (1) The Executive Director may, upon review of a request by the Privacy Officer, authorize the Privacy Officer to disregard an application that would unreasonably interfere with the operations of the Kwanlin Dün First Nation because that application is

(a) repetitious or systematic in nature;
(b) frivolous or vexatious; or
(c) is excessively broad.

(2) The authorization under subsection (1) shall be made in writing and the Privacy Officer shall deliver a copy of the authorization to the applicant.

Duty to assist applicants

24. (1) The Privacy Officer shall make reasonable efforts to
(a) assist applicants to identify a record;
(b) respond without delay to each applicant openly, accurately and completely;

(2) The Privacy Officer shall create a record for an applicant if
(a) the record can be created from a computer record in the custody or under the control of the Kwanlin Dün First Nation, using its customary computer hardware and software and technical expertise; and
(b) creating the record would not unreasonably interfere with the operations of the Kwanlin Dün First Nation.

Power to request information or fee

25. (1) At any time before making a decision in respect of an application, the Privacy Officer may deliver to the applicant a notice
(a) requesting further information from the applicant that is necessary to process the application; or
(b) requiring the applicant to pay some or all of the estimated or actual fee in accordance with the regulations.

(2) If the Privacy Officer delivers a notice to an applicant pursuant to subsection 2(1), the observance of time in respect of the period within which the Privacy Officer must respond to the application is suspended from the date on which the notice was sent for delivery to the date on which the Privacy Officer receives delivery of a compliant response to the notice.

(3) Any notice delivered pursuant to subsection (1) shall notify the applicant that
(a) if no response is received within 30 business days, the Privacy Officer may deem the application to have been abandoned by the applicant; and

Abandoned applications

26. (1) If the Privacy Officer delivers to an applicant a notice pursuant to subsection 24(1) and the applicant fails to deliver a compliant response within the prescribed time to do so, the Privacy Officer may deem the application to have been abandoned by the applicant.

(2) The applicant may apply to the Judicial Council for a consideration of the decision to deem the application as having been abandoned by the applicant.

Time limit for response

27. The Privacy Officer shall respond to an application no later than 30 business days after receiving that application unless the time for responding is extended under section 28.

Extending the time limit for response

28. (1) The Privacy Officer may extend the time for responding to an application for up to an additional 30 business days in any of the following circumstances:

(a) a large number of records is requested or shall be searched and meeting the time limit would unreasonably interfere with the operations of the Kwanlin Dün First Nation; or

(b) more time is needed to consult with a third party before the Privacy Officer can decide whether or not to give the applicant access to a requested record.

(2) In addition to any time extension under subsection (1), the Privacy Officer may extend the time for responding to a request for up to an additional 45 calendar days if

(a) one or more of the events described in subsections (1)(a) and (b) continue to apply;

(3) If the time for responding to a request is extended under subsections (1) or (2), the Privacy Officer shall notify the applicant

(a) of the reason for the extension and when a response can be expected; and

(b) that the applicant may apply to the Privacy Officer for a reconsideration of the extension.

(4) The failure of the Privacy Officer or Kwanlin Dün First Nation to respond to a request for access to a record within the time limit shall be treated as a decision to refuse access to the record.

Contents of response

29. (1) A response to an application shall address

(a) the applicant's entitlement to access any record or part of any record identified in an application;

(b) if the applicant is entitled to access, the means by which access to any record will be given;

(c) if access to any record or to part of any record is refused,

(i)the reasons for which access is refused and any provision in this Act on which the refusal is based;

(ii) the title, business address and business telephone number of a public officer of the Kwanlin Dün First Nation who can answer the applicant's questions about the refusal; and

(iii) the applicant's right to apply for a reconsideration of the decision of the Privacy Officer under Section 35.

(2) The Privacy Officer shall refuse in a response to confirm or deny the existence of a record if that record contains

(a) information described in subsection 31(1)(c); or

(b) personal information about a third party if disclosure of the existence of the information would be an unreasonable invasion of that third party's personal privacy.

How access shall be given

30. (1) Where access to a record or part of a record will be provided to an applicant, that access shall be provided in accordance with this section.

(2) If the applicant has asked for a copy of a record and the record or part of a record can reasonably be reproduced, a copy of the record or part of the record shall be provided with the response.

(3) If the applicant has asked to examine a record or the applicant has asked for a copy of the record, but the record cannot reasonably be reproduced, the applicant shall

(a) be permitted to examine the record or part of the record; or

(b) be given any other right of access as may be provided for in the regulation to this Act.

Exceptions

31. (1) The Privacy Officer may refuse to provide an applicant access to a record if providing access to that record could reasonably be expected to

(a) harm the deliberative process or reveal a confidence of the Council, the Elders Council, the Youth Council, the Judicial Council, or a board or committee of the Kwanlin Dün First Nation;

(b) reveal confidential policy advice, options, recommendations, briefings, or requests for direction;

(c) reveal any information relating to a law enforcement matter, an ongoing or potential investigation, or investigative techniques;

(d) reveal information that is subject to legal privilege;

(e) harm the intergovernmental relations or negotiations of the Kwanlin Dün First Nation;

(f) reveal information received in confidence from a public body or other government;

(g) harm the commercial, financial or economic interests or negotiations of the Kwanlin Dün First Nation or any business organization owned or controlled by Kwanlin Dün First Nation in whole or in part;

(h) result in damage to, or interfere with, the conservation of archaeological human remains and burial objects, natural sites, or a threatened or vulnerable, endangered or rare species, habitat, or ecosystem;

(i) harm Kwanlin Dün language, culture, heritage, or spirituality or the practices and interests related to them; or

(j) create a risk for public safety or of harm to an individual.

32. (1) The Privacy Officer shall refuse to provide an applicant access to a record if providing access to that record

(a) would reveal

(i) trade secrets of a third party, or

(ii) 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

(i) harm significantly the competitive position, or interfere significantly with the negotiating position of the third party,

(ii) result in similar information no longer being supplied to the Kwanlin Dün First Nation when it is in the interest of Kwanlin Dün First Nation that similar information continues to be supplied,

(iii) result in undue financial loss or gain to any person or organization, or

(iv) 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.

(2) Subsection (1) does not apply if the third-party consents to the disclosure.

33. (1) The Privacy Officer shall refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of the third party's personal privacy.

(2) Disclosure of personal information to an applicant is presumed to be an unreasonable invasion of a third party's personal privacy in any one of the following circumstances:

(a) the personal information relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment, or evaluation;

(a) the personal information was compiled and is identifiable as part of an investigation into or an assessment of a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to enforce law or to continue the investigation;

(b) the personal information relates to eligibility for income assistance or social service benefits or to the determination of benefit levels;

(c) the personal information relates to the third party's employment or educational history;

(d) the personal information was obtained on a tax return or gathered for the purpose of collecting a tax;

(e) the personal information describes the third party's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or credit worthiness;

(f) the personal information consists of personal recommendations or evaluations, character references or personal evaluations, about the third party;

(g) the personal information indicates the third party's racial or ethnic origin, Indian status, sexual orientation, religious or political beliefs or associations, or contains genealogical information; or

(h) the personal information consists of the third party's name together with the third party's address or telephone number and is to be used for mailing lists or solicitations by telephone or other means.

(3) A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy if any of the following applies:

(a) the third party has, in writing, consented to or requested the disclosure;

(b) there are compelling circumstances affecting anyone's health or safety and notice of disclosure is mailed to the last known address of the third party;

(b) a Kwanlin Dün First Nation law or an enactment of Yukon or Canada authorizes the disclosure;

(c) the disclosure is for a research or statistical purpose in accordance with subsection 17(3);
(d) the information is about the third party's position, functions or salary range as a public officer of the Kwanlin Dün First Nation;
(e) the disclosure reveals financial and other details of a contract to supply goods or services to the Kwanlin Dün First Nation;
(f) the information is about expenses incurred by a third party while travelling at the expense of the Kwanlin Dün First Nation;
(g) the disclosure reveals the details of a license, permit or other similar discretionary benefit granted to a third party by the Kwanlin Dün First Nation, not including personal information supplied in support of an application for the benefit; or
(h) the disclosure reveals details of a discretionary benefit of a financial nature granted to the third party by the Kwanlin Dün First Nation, not including personal information that is supplied in support of the application for the benefit or is referred to in paragraph (c).

(4) Before refusing to provide access to a record containing personal information under this section, the Privacy Officer shall consider all the relevant circumstances, including whether
(a) the third party will be exposed unfairly to financial or other harm;
(b) the personal information is unlikely to be accurate or reliable;
(c) the personal information has been supplied in confidence;
(d) the disclosure may unfairly damage the reputation of any person referred to in the record requested by the applicant;
(e) the personal information is relevant to a fair determination of the applicant's rights;
(f) the disclosure is desirable for the purpose of subjecting the activities of the Kwanlin Dün First Nation to public scrutiny; or
(g) the disclosure is likely to promote public health and safety.

Third party notice

34. (1) Before deciding whether to give an applicant access to a record that the Privacy Officer has reason to believe contains information that might be excepted from disclosure to which Section 31 or 32 applies, the Privacy Officer must, if practicable, give the third party a notice
(a) stating that an application has been made for access to a record containing personal information the disclosure of which may affect the business interests or invade the personal privacy of the third party;
(b) describing the contents of the record; and
(c) stating that, within 20 business days after the notice is given, the third party may, in writing, consent to the disclosure or may make written representations to the Privacy Officer explaining why the information should not be disclosed.

(2) When notice is given under subsection (1), the Privacy Officer must also give the applicant a notice stating that
(a) the record requested by the applicant contains information the disclosure of which may affect the business interests or invade the personal privacy of a third party;
(b) the third party is being given an opportunity to make representations concerning disclosure; and
(c) a decision will be made within 30 business days about whether or not to give the applicant access to the record.

Time limit and notice of decision

35. (1) Within 30 business days after notice is given under subsection 33(1), the Privacy Officer must decide whether or not to give access to the record or to part of the record, but no decision may be made before the earlier of

(a) the day a response is received from the third party; or

(b) 21 business days after the day notice is given.

(2) On reaching a decision under subsection (1), the Privacy Officer must give written notice of the decision to

(a) the applicant; and

(b) the third party.

(3) If the Kwanlin Dün First Nation decides to provide access to the record or to part of the record, the notice must state that the applicant will be given access unless the third party asks for a reconsideration under Section 40 within 15 business days after the day that notice is given under subsection (2).

PART SIX
COMPLAINTS, RECONSIDERATIONS AND REVIEWS

Complaints

36. An individual who believes that the Kwanlin Dün First Nation has improperly exercised their duties subject to Parts 2, 3, 4, or 5 may deliver to the Privacy Officer a written complaint, and shall include with that complaint any written submissions and documents necessary to allow the Privacy Officer to assess the merits of the complaint, and any other information or material prescribed by regulation.

37. The Privacy Officer shall consider the merits of a complaint made under this Part and in so doing may, at any time before making a decision, make any enquiry or receive any submissions deemed necessary or beneficial.

38. After considering a complaint made under this Part, the Privacy Officer shall prepare a written decision either dismissing the complaint or accepting the complaint in whole or in part and giving notice to the individual of the right to apply to the Judicial Council for a review of the decision.

39. If a complaint is accepted in whole or in part, the Privacy Officer's decision may, if appropriate, require that a public officer take particular steps to rectify any record within their custody and control at issue in the complaint.

40. The Privacy Officer considering a complaint made under this Part shall not consider or determine

(1) any issue of liability; or

(2) any issue of compensation.

Request for Reconsideration

41. A person entitled to receive notice of a decision of the Privacy Officer made pursuant to Section 37 of this Act may, within 15 business days of receiving delivery of that decision, deliver to the Judicial Council an application requesting a reconsideration of that decision, and shall include with that application a written statement setting out the grounds on which the application is made, any documents necessary to allow the Judicial Council to assess the merits of the application, and any other information or material prescribed by regulation.

42. An application made under this Part operates as a stay of the decision at issue in the application, but any step taken in reliance on that decision prior to the filing of an application under this Part shall be deemed to have been duly authorized to the extent that it complies with that decision.

43. The Judicial Council shall deliver a copy of any application made under this Part to each person who was entitled to make submissions to the Judicial Council in connection with the application underlying the decision to be reconsidered.

44. Each person to whom a copy of an application made under this Part has been delivered

(1) may make submissions responding to the issues raised in the application or raising and addressing any other issue related to the decision being reconsidered; and

(2) shall deliver submissions to the Judicial Council within 15 business days from the date on which the application was delivered to that person.

45. The Judicial Council shall consider the merits of an application made under this Part and in so doing may, at any time before making a decision, if deemed necessary or beneficial, take into account any information submitted in the course of considering the application underlying the decision being reconsidered or make any further enquiry or receive any further submissions.

46. If a request for reconsideration is made, then within 40 business days after the notice of a decision of the Privacy Officer is delivered to a person under Section 37, the Judicial Council must decide whether to affirm or amend the decision being reconsidered, but no decision may be made before the earlier of

(a) the day a response is received from a person to whom, under Section 42, was delivered a copy of any application made under this Part; or

(b) 31 business days after the day notice is given under Section 37.

47. (1) After considering an application made under this Part, the Judicial Council shall prepare a written decision affirming or amending the decision being reconsidered to the applicant.

(2) A person may not bring an application referred to in subsection (1) unless that person has first availed themselves of any administrative remedy provided for under this Act.

PART SEVEN
RECORDS MANAGEMENT

Establishment of records management system

48. The Kwanlin Dün First Nation shall establish and operate a records management system to ensure that all information in the custody or under the control of the Kwanlin Dün First Nation is managed in accordance with generally accepted standards for records management in Canada.

Retention of information

49. If the Kwanlin Dün First Nation uses an individual's personal information to make a decision that directly affects the individual, the personal information used in the decision-making process shall be retained for a period of at least one year.

PART EIGHT
ENFORCEMENT

Offences and penalties

50. (1) A person shall not willfully:

(a) make a false statement to, or mislead or attempt to mislead the Privacy Officer or another person in the performance of duties, powers or functions under this Act; or

(b) obstruct the Privacy Officer or any other individual in the performance of their duties, powers or functions under this Act.

(2) A person who contravenes subsection (1) is guilty of an offence punishable on summary conviction and liable to a fine not exceeding $5,000 or imprisonment for a term not exceeding six months, or both.

PART NINE
PERIODIC REVIEW OF THIS ACT

Review report

51. By the date this Act comes into force, and every year after that date, the Director of the Department of Governance shall prepare a report for the Council on the operation of this Act together with any recommendations to better achieve the purposes of this Act.

Annual report of Privacy Officer

52. The Privacy Officer shall report annually in respect of the year past, in writing, to the Executive Director of Governance, respecting

(a) the work of the Privacy Officer's office; and

(b) any complaints or applications made under Part Six.

PART TEN
MISCELLANEOUS

Delivery and Notice

53. The delivery of any document or notice required to be made to a person shall be delivered

(a) by personal service to that person, which delivery is effective immediately;

(b) by pre-paid registered mail to any address specified by that person to the Privacy Officer, and if none has been specified, then to the last known mailing address of the person according to the records of the Registrar of Citizenship, which delivery is deemed effective 5 business days after sent for delivery; or

(c) at the request or with the agreement of the person to whom the delivery is to be made, which agreement may be obtained after the fact through acknowledgement of receipt, by e-mail to that person, which delivery is deemed effective the earlier of the receipt of an acknowledgement of receipt or 2 days after sent for delivery.

Regulations

54. The Council may make regulations it considers advisable for the purposes of this Act, including, but not limited to, the following:

(a) normal business hours for the examination of records;

(b) standards to ensure reasonable access to records and protection of personal information;

(c) notification of third parties under subsection 28(2);

(d) policies, procedures and timelines to be followed for access to records and protection of personal information;

(e) destruction of records;

(f) categories of records and publication schemes;

(g) reasonable restrictions with respect to the inspection of records and the protection of personal information;

(h) reasonable fees for copies and other services provided in respect of records;

(i) handling of complaints and requests for review of decisions made under this Act; and

(j) any other matter the Council considers necessary to bring the purposes and provisions of this Act into effect.

Act in force

55. This Act shall come into force and have effect as a whole or in part or parts at a day or days to be fixed by the Council.