

ORDINANCE NO. 11-16

AN ORDINANCE AMENDING
THE DEER PARK VILLAGE CODE

(RE: New Chapter 35, "Freedom of Information Act ("FOIA")
Rules and Regulations", of Title III)

WHEREAS, Public Acts 097-0080, 097-0342, 097-0385, and 097-0579, which recently became effective, made amendments that either amended or affected the Freedom of Information Act ("FOIA") (all of the aforesaid Public Acts hereinafter collectively referred to as "the Acts"); and

WHEREAS, the Corporate Authorities of the Village of Deer Park ("the Village") find that it is in the best interests of the Village to amend the provisions of the Deer Park Municipal Code to comply with the amendments set forth in the Acts, as hereinafter set forth:

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Deer Park, Cook and Lake Counties, Illinois, as follows:

SECTION 1: The President and Board of Trustees of the Village hereby find that the recitals hereinabove set forth are true and correct and are incorporated into the text of this Ordinance as its findings to the same extent as if such recitals had been set forth herein in their entirety.

SECTION 2: Title III, "Administration", of the Deer Park Municipal Code is hereby amended by adding a new Chapter 35, "Freedom of Information Act ("FOIA") Rules and Regulations", which new Chapter shall read as follows:

CHAPTER 35
FREEDOM OF INFORMATION ACT ("FOIA") RULES AND REGULATIONS

' 35.01: PUBLIC RECORDS:

- A. The Village recognizes that pursuant to 5 ILCS 140/1, the Illinois Freedom of Information Act (5 ILCS 140) ("FOIA") provides that it is a primary obligation of public bodies to provide records.
- B. The Village also recognizes that pursuant to 5 ILCS 140/3.3 of the FOIA, public bodies are not required to interpret or advise requesters as to the meaning or significance of public records.
- C. The Village also recognizes that pursuant to 5 ILCS 140/1 of the FOIA, public bodies are not obligated to create a public record which was not already created or prepared by the public body.

- D. Pursuant to the authority contained in the FOIA, the Village hereby promulgates as the following rules and regulations, but to the extent that said rules and regulations might otherwise be interpreted as inconsistent with the FOIA, the FOIA shall govern in all respects.

' 35.02: FREEDOM OF INFORMATION ACT OFFICER (5 ILCS 140/3.5):

- A. **Position Created:** There is hereby created the position of "Freedom of Information Act Officer" ("FOIA Officer"). There may be one or more FOIA Officer(s) designated. The Corporate Authorities of the Village will designate one or more officials or employees of the Village to act as a Freedom of Information Officer, and the Village shall disclose the identity of its FOIA Officer(s) on either its website or by means of a list of such officers available for public access. The list of FOIA Officer(s) shall also be provided to the State's Public Access Counselor ("PAC").
- B. **Duties and Responsibilities:** The FOIA Officer(s), or his or her designee, shall have the following duties and responsibilities:
- (1) **Training:** Initially, within six (6) months after January 1, 2010, all FOIA Officers shall successfully complete, via electronic means, a training course administered by the Illinois Public Access Counselor (the "PAC"). All FOIA Officer(s) shall thereafter complete additional training on an annual basis. New FOIA Officers must complete the curriculum within thirty (30) days after their appointment to the position.
 - (2) The FOIA Officer shall be responsible for:
 - (a) Receiving FOIA requests;
 - (b) Ensuring timely responses to FOIA requests;
 - (c) Issuing FOIA responses;
 - (d) Developing a list of documents or categories of records that the Village will immediately disclose upon request;
 - (e) Meeting with requesters to inspect records in his or her presence.
 - (3) Upon receiving a FOIA request, the FOIA Officer shall do the following:
 - (a) Note the date the Village received the written request;
 - (b) Compute the day on which the period for response will expire and make a notation of that date on the written request;
 - (c) Maintain an electronic or paper copy of a written request, including all documents submitted with the request until the request has been complied with or denied; and
 - (d) Create a file for the retention of each original request, a copy of the response, a record of written communications with the requester, and a copy of other related communications.

- (4) The FOIA Officer or his or her designate is authorized to issue notices of extension of time for production of records as well as notices of denial ~~and/or intent to deny~~ for production of records.

C. POSTING OF FOIA OFFICER AND RELATED INFORMATION (5 ILCS 140/4):

In compliance with the provisions of the Illinois FOIA, the Village shall prominently display at its administrative office at the Village Hall, make available for inspection and copying, and send through the mail, if requested, any or all of the following:

- (1) A brief description of itself, including a short summary of its purpose, a block diagram giving its functional subdivisions, the total amount of its operating budget, the number and location of all of its separate offices, the approximate number of full and part-time employees, and the identification and membership of any board, commission, committee, or council which operates in an advisory capacity relative to the operation of the public body, or which exercises control over its policies or procedures, or to which the public body is required to report and be answerable for its operations; and
- (2) A brief description of the methods whereby the public may request information and public records, a directory designating the Freedom of Information Officer or Officers, the address where requests for public records should be directed, and any fees allowable under the FOIA.
- (3) The Village shall also post this information on any website the Village maintains.

' 35.03: PROCEDURE FOR FILING A FOIA REQUEST WITH THE VILLAGE:

- A. Pursuant to the Freedom of Information Act ("FOIA") (5 ILCS 140), requests for inspection of or copies of records shall be made in writing and directed to the Village's FOIA Officer, but no standard form for such request is required. Requests may be made by mail, electronic mail, facsimile request, or personal delivery of a written request. If a requester wishes, the FOIA Officer will provide the requester with a "Freedom of Information Act Request Form" for his or her use. The FOIA Officer, at his or her discretion, may also consider verbal FOIA requests.
- B. Questions regarding access to Village records shall be directed to the FOIA Officer, or his or her designate. In consideration of the type, size, and complexity of the document(s) requested, it may be necessary for a requester to make an appointment with the FOIA Officer to answer questions or review documents.

C. Recurrent Requesters:

- (1) Pursuant to Section 5 ILCS 140/2(g) of the FOIA, a "recurrent requester" is defined as one who "in the 12 months preceding the request, has submitted to the same public body (i) a minimum of 50 requests for records, (ii) a minimum of 15 requests for records within a 30-day period, or (iii) a minimum of 7

requests for records within a 7-day period”, excepting requests made by news media a non-profit, scientific, or academic organizations “when the principal purpose of the requests is (i) to access and disseminate information concerning news and current or passing events, (ii) for articles of opinion or features of interest to the public, or (iii) for the purpose of academic, scientific, or public research or education”.

- (2) Within five (5) business days after receipt of a request from a “recurrent requester”, the Village shall notify the requester in writing: (a) that the Village is treating the request as a request under 5 ILCS 140/2(g) (“recurrent requester”) of the FOIA, (b) the reason(s) the request is being treated in this way, and (c) that the Village will send its initial response to the request within twenty-one (21) days of receipt of the request.
- (3) Within twenty-one (21) business days after receipt of such a request, the Village shall again respond to the requester, which response shall include an estimate of time required to fulfill the request; an estimate of the fees to be charged, and other estimated costs, and, if applicable, notification that the requester may be required to pay the fees and charges in full before the requested records are copied; and/or notification that the request is unduly burdensome and extend an opportunity to the requester to reduce the request to a manageable proportion; or provide the requested records.
- (4) If the requested records were not provided to the requester within the aforesaid twenty-one (21) business day period, unless the records are exempt from disclosure, the requested records shall be sent to the recurrent requester within a reasonable period thereafter, considering the size and complexity of the request.

' 35.04: INSPECTION OF RECORDS; TIME AND PLACE FOR INSPECTION:

- A. The FOIA Officer or his or her designee shall obtain the file or files requested and allow the requester to inspect them in his or her presence. Should the requester request copies of all or a portion of the information, the requester must indicate in writing, or on the FOIA request form what copies are desired, and the FOIA Officer or his or her designee will make the requested copies and provide them to the requester within the time frame prescribed by the FOIA, provided, however, that such information is not determined to be exempt.
- B. For any request made to inspect and/or photocopy a public record containing information that is both exempt from disclosure and not exempt from disclosure, the Village shall make only the non-exempt information available for inspection and/or photocopying by redacting the exempt information from the document.
- C. Hours: Public records may only be inspected at the Village Hall during the hours when it is regularly open.

- D. Business Days: Monday through Friday, both inclusive, except holidays, are defined or fixed by any statute of the State are hereby declared to be “business days”.
- E. Search, Location and Reproduction of Records: Only Village personnel shall be permitted to search Village files to locate records requested, and only Village personnel shall be permitted to operate Village equipment to reproduce the requested copies.

' 35.05: PROCEDURE FOR FULFILLING FOIA REQUESTS: Upon receiving a FOIA request, the FOIA Officer, or his or her designee, shall:

- A. Note the date the Village received the written request;
- B. Compute the day on which the period for response will expire and make a notation of that date on the written request (5 business days, or ~~a reasonable time of up to 21 business days for requests for commercial purposes or for requests made by “recurrent requesters” as defined herein, 5 business days for an initial response, with a follow-up response within 21 days after receipt of the request, and a final response within a reasonable period thereafter, considering the size and complexity of the request~~);
- C. Maintain an electronic or paper copy of a written request, including all documents submitted with the request until the request has been complied with or denied; and
- D. Meet with requesters, if necessary, to inspect records in his or her presence;
- E. Create a file for the retention of each original request, a copy of the response, a record of written communications with the requester, and a copy of other related communications;
- F. Assemble and duplicate the requested records, except for records which are exempt, and redact any records which may be partially exempt, and/or coordinate retrieval of the requested records with the facility storing the records for the Village;
- G. Keep, and/or request from the designated personnel, and maintain a record of those hours over eight (8) hours which were spent by personnel in retrieving a requested record; and
- G. H. Notify the requester in writing of the status of production of the requested records, i.e., that such records are ready and available for the requester, that production of the records is denied in whole or in part and the reasons therefor, and/or that the Village intends to deny such request and is so notifying the Illinois Public Access Counselor the amount of any fees and/or costs associated with the request, where applicable, prior to copying and/or production of such requested records, and whether such fees and/or costs must be paid by the requester prior to the Village’s copying of such records.

'35.06: TIME FRAME FOR PRODUCTION OF RECORDS; EXTENSION OF TIME TO PRODUCE RECORDS:

- A. Pursuant to the FOIA, the Village is generally required to produce the requested records within five (5) business days of receipt of the request, excluding the day the request was received by the Village, except where the request is made for commercial purposes, and except where the request is made by a "recurrent requester" as provided in this Chapter.
- B. ~~Relative to requests for commercial purposes, the Village is required to produce the requested records within a "reasonable period" up to twenty-one (21) business days. "Commercial enterprise" as used in the Illinois Freedom of Information Act (FOIA) shall include both profit and not-for-profit ventures, organizations and entities. The Village may inquire as to whether the records requested are sought to advance a commercial purpose, and if a requester attempts to procure a public record for a commercial purpose without disclosing that the use is for a commercial purpose, that constitutes a violation of the FOIA. (5 ILCS 140/3.1) The Village's response to such commercial requests may include an estimate of the time it may take to provide the requested records, an estimate of the fees to be charged, and may require the requester to pay the copying charges in full before the copies are made shall be as follows:~~
- (1) Within twenty-one (21) business days after receipt of such a commercial request, the Village shall respond in writing to the requester, which response shall include an estimate of time required to fulfill the request; an estimate of the fees to be charged, and other associated costs as provided in Section 1-17-7 of this Chapter, and, if applicable, notification that the requester may be required to pay the fees and charges in full before the requested records are copied; and/or notification that the request is unduly burdensome, extending an opportunity to the requester to reduce the request to a manageable proportion; or provide the requested records.
- (2) If the requested records were not provided to the commercial requester within the aforesaid twenty-one (21) business day period, unless the records are exempt from disclosure, the requested records shall be sent to the commercial requester within a reasonable period thereafter, considering the size and complexity of the request.
- C. Notwithstanding the foregoing, if a request is delivered on a day which is not a business day, or after the close of business, the request shall be deemed made on the first business day subsequent thereto.
- D. If, upon review of the request, the FOIA Officer, or his or her designee, finds that he or she is not able to compile all of the necessary information immediately, another time may be arranged within the prescribed time frame for the requester to return to receive a response to the request.

- E. The FOIA Officer, or his or her designee, may extend the time limit for responding to a request by an additional five (5) business days where:
- (1) The requested record is in a place other than the office in charge of the record.
 - (2) The request requires an extensive search.
 - (3) The records have not been found in time and additional efforts are necessary to retrieve them.
 - (4) The record requires examination to determine if it should be exempt from viewing.
 - (5) Compliance with the request would cause undue burden or interfere with the operations of the Village. (Repeated requests for the same information by the same person shall be deemed unduly burdensome under this provision).
- F. If it is necessary to extend the time limit for production of records, the requester will be notified in writing by the FOIA Officer or his or her designee within five (5) business days of receipt of the request and such notice will give the reason for the extension. Failure to respond to the request within five (5) business days is considered a denial of the request.

' 35.07: FEES; REQUESTS FOR WAIVER OF FEES:

- A. Each requester is required pay to the Village the appropriate fees for copies of Village records and will receive a receipt for same. In the case of commercial requests, a requester shall also be required to pay to the Village other charges as set forth below. No records will be distributed to the requester unless and until all charges associated with the request are paid to the Village in full. The Village will charge the following fees ~~for reproduction or copying of records~~ as set forth in the FOIA:
- (1) Black and white, letter or legal size copies: There is no charge for providing the initial 50 pages, after which the cost will be \$.15 per page.
 - (2) Color or Irregular Sized Copies: The fee for color or irregular sized copies shall be the actual cost incurred by the Village for reproducing the records.
 - (3) Certification of document: The fee for certification of a document shall be \$1.00.
 - (4) Records in Electronic Format: If the Village maintains the respective document(s) in electronic format, such document(s) must be furnished in the electronic format if the requester so requests. The Village is not required to produce records kept in electronic format in an alternate manner. The fee charged for producing records in an electronic format shall be the actual cost incurred by the Village for purchasing the recording medium.
 - (5) With respect to requests for commercial purposes, in addition to the fees set forth in subsections (1) through (4) above, such requesters shall also be required to pay the following:

- (a) The requester shall be required to pay to the Village ten dollars (\$10.00) per hour for each hour after the first eight (8) hours spent by personnel in searching for or retrieving a requested record.
 - (b) The requester shall be required to pay to the Village the actual cost of retrieving and transporting public records from an off-site storage facility when the public records are maintained by a third-party storage company under contract with the Village.
 - (c) With respect to those charges provided for in subsections (a) and (b) above, the Village shall provide to the requester an accounting of all fees, costs, and personnel hours expended in connection with the request.
- B. All payments for production of records shall be made in the form of cash or certified or cashier's check made payable to the Village.
- C. Requests to waive any fee(s) for reproduction of document(s) must be made in writing to a FOIA Officer of the Village and must state how the information requested "primarily benefits the general public". The FOIA Officer shall be authorized to determine whether such request for a waiver shall be honored.
- D. Each copy, other than electronic media, may be certified if requested and paid for by the requester. Documents may be furnished without charge if the requester is unable to pay for them, and the purpose of such request is determined by the FOIA Officer to be in the public interest.

' 35.08: EXEMPT AND NON-EXEMPT RECORDS:

- A. The FOIA Officer, or his or her designee, may not give out information which is in a file marked by an asterisk (*) in the catalogue of existing files. This information has been predetermined to be exempt from disclosure under the Illinois Freedom on Information Act.
- B. Any record marked with a double asterisk (**) has been determined to be partially exempt. One or more authorized officers or employees of the Village shall review the file and will provide any non-exempt information to requester. Records having both exempt and non-exempt material shall be provided to the requester in a redacted format revealing only the non-exempt material.
- C. In addition, while not so marked, information may not be disclosed if it falls within one or more of the following exempt categories:
 - (1) Disclosure of the requested information is specifically prohibited by Federal or State law or rules and regulations implementing Federal or State law [5 ILCS 140/7(1)(a)].

- (2) The information requested is “private information” unless disclosure is required by another provision of the FOI Act, a State or Federal law, or a court order [5 ILCS 140/7(1)(b)]
- (3) The information requested is a file(s), document(s), and/or other data or database(s) maintained by one or more law enforcement agencies and specifically designed to provide information to one or more law enforcement agencies regarding the physical or mental status of one or more individual subjects. [5 ILCS 140/7(1)(b-5)/P.A. 96-0558]
- (4) The document(s) requested relate to personal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. “Unwarranted invasion of personal privacy” means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject’s right to privacy outweighs any legitimate public interest in obtaining the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy. [5 ILCS 140/7(1)(c)]
- (5) The document(s) requested are in the possession of the public body and were created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, and that disclosure would do one or more of the following [5 ILCS 140/7(1)(d)]:
 - (a) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency that is the recipient of the request;
 - (b) interfere with active administrative enforcement proceedings conducted by the public body that is the recipient of the request;
 - (c) create a substantial likelihood that a person will be deprived of a fair trial or an impartial hearing;
 - (d) unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies; except that the identities of witnesses to traffic accidents, traffic accident reports, and rescue reports shall be provided by agencies of local government except when disclosure would interfere with an active criminal investigation conducted by the agency that is the recipient of the request;

- (e) disclose unique or specialized investigative techniques other than those generally used and known or disclose internal documents of correctional agencies related to detection, observation or investigation of incidents of crime or misconduct, and disclosure would result in demonstrable harm to the agency or public body that is the recipient of the request;
 - (f) endanger the life or physical safety of law enforcement personnel or any other person; or
 - (g) obstruct an ongoing criminal investigation by the agency that is the recipient of the request.
- (6) The document(s) requested are records that relate to or affect the security of correctional institutions and detention facilities [5 ILCS 140/7(1)(e)].
- (7) The document(s) requested are preliminary drafts, notes, recommendation, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body.[5 ILCS 140/7(1)(f)]
- (8) The document(s) requested would disclose trade secrets and commercial or financial information obtained from a person or business where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged or confidential, and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business, and the claim directly applies to the records requested, including all trade secrets and commercial or financial information obtained by a public body, including a public pension fund, from a private equity fund or a privately held company within the investment portfolio of a private equity fund as a result of either investing or evaluating a potential investment of public funds in a private equity fund. This exemption does not apply to the aggregate financial performance information of a private equity fund, nor to the identity of the fund's managers or general partners. This exemption does not apply to the identity of a privately held company within the investment portfolio of a private equity fund, unless the disclosure of the identity of a privately held company may cause competitive harm. Nothing contained in this exemption is to be construed to prevent a person or business from consenting to disclosure. [5 ILCS 140/7(1)(g)].
- (9) The document(s) requested constitute proposals or bids for a contract, grant or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contract or agreement with the body, until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation is exempt until an award or final selection is made [5 ILCS 140/7(1)(h)].

- (10) The document(s) requested are valuable formulae, computer geographic systems, designs, drawings or research data obtained or produced by any public body when disclosure could reasonably be expected to produce private gain or public loss. The exemption for “computer geographic systems” does not extend to requests made by news media as defined in Section 2 of the FOIA when the requested information is not otherwise exempt and the only purpose of the request is to access and disseminate information regarding the health, safety, welfare, or legal rights of the general public [5 ILCS 140/7(1)(i)].
- (11) The document(s) requested are architects’ plans, engineers’ technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds and the same for projects constructed or developed with public funds, including but not limited to power generating and distribution stations and other transmission and distribution facilities, water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings, but only to the extent that disclosure would compromise security. [5 ILCS 140/7(1)(k)].
- (12) The document(s) requested are minutes of meetings of public bodies closed to the public as provided in the Open Meetings Act until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act [5 ILCS 140/7(1)(l)].
- (13) The document(s) requested constitute or reflect communications between a public body and an attorney or auditor representing the public body that would not be subject to discovery in litigation, and materials prepared or compiled by or for a public body in anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising the public body, and materials prepared or compiled with respect to internal audits of public bodies [5 ILCS 140/7(1)(m)].
- (14) The document(s) requested are records relating to a public body’s adjudication of employee grievances or disciplinary cases, but this exemption does not extend to the final outcome of cases in which discipline is imposed [5 ILCS 140/7(1)(n)].
- (15) The document(s) requested relate to administrative or technical information associated with automated data processing operations, including but not limited to software, operating protocols, computer program abstracts, file layouts, source listings, object modules, load modules, user guides, documentation pertaining to all logical and physical design of computerized systems, employee manuals, and any other information that, if disclosed, would jeopardize the security of the system or its data or the security of materials under this exemption [5 ILCS 140/7(1)(o)].

- (16) The document(s) requested relate to records relating to collective negotiating matters between public bodies and their employees or representatives, but any final contract or agreement is subject to inspection and copying [5 ILCS 140/7(1)(p)].
- (17) The document(s) requested relate to test questions, scoring keys, and other examination data used to determine the qualifications of an applicant for a license or employment [5 ILCS 140/7(1)(q)].
- (18) The document(s) requested relate to records, documents and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated. With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding under the Eminent Domain Act, records, documents and information relating to that parcel are exempt except as may be allowed under discovery rules adopted by the Illinois Supreme Court. The records, documents and information relating to a real estate sale are exempt until a sale is consummated [5 ILCS 140/7(1)(r)].
- (19) The document(s) requested relate to any and all proprietary information and records related to the operation of an intergovernmental risk management association or self-insurance pool or jointly self-administered health and accident cooperative or pool, including any claims, loss or risk management information, records, data, advice or communications [5 ILCS 140/7(1)(s)].
- (20) The document(s) requested relate to information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of a public body responsible for the regulation or supervision of financial institutions or insurance companies, unless disclosure is otherwise required by State law [5 ILCS 140/7(1)(t)].
- (21) The document(s) requested relate to information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs, or private keys intended to be used to create electronic or digital signatures under the Electronic Commerce Security Act [5 ILCS 140/7(1)(u)].
- (22) The document(s) requested relate to vulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations, the destruction or contamination of which would constitute a clear and present danger to the health or safety of the community, but only to the extent that disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of the personnel who implement them or the public. Information under this exemption may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, or to tactical operations [5 ILCS 140/7(1)(v)].

- (23) The document(s) requested relate to maps and other records regarding the location or security of generation, transmission, distribution, storage, gathering, treatment, or switching facilities owned by a utility, by a power generator, or by the Illinois Power Agency [5 ILCS 140/7(1)(x)].
- (24) The document(s) requested relate to information contained in or related to proposals, bids, or negotiations related to electric power procurement under Section 1-75 of the Illinois Power Agency Act and Section 16-111.5 of the Public Utilities Act that is determined to be confidential and proprietary by the Illinois Power Agency or by the Illinois Commerce Commission [5 ILCS 140/7(1)(y)].
- (25) The document(s) requested relate to the names, addresses, or other personal information of persons who are minors and are also participants and registrants in programs of park districts, forest preserve districts, conservation districts, recreation agencies, and special recreation associations [5 ILCS 140/7(1)(dd)] (P.A. 97-0385).
- (26) The document(s) requested relate to the names, addresses, or other personal information of participants and registrants in programs of park districts, forest preserve districts, conservation districts, recreation agencies, and special recreation associations where such programs are targeted primarily to minors [5 ILCS 140/7(1)(ee)] (P.A. 97-0385).
- ~~(25)~~ (27) The document(s) requested relate to one or more of the following statutory exemptions to the extent provided for by such specific statute(s):
- (a) Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act;
 - (b) Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code;
 - (c) Information and data concerning the distribution of surcharge moneys collected and remitted by wireless carriers under the Wireless Emergency Telephone Safety Act;
 - (d) Law enforcement officer identification information or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code;
 - (e) Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act;
 - (f) Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act;

- (g) Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected, or prepared by or for the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act or the St. Clair County Transit District under the Bi-State Transit Safety Act;
- (h) Information prohibited from being disclosed by the Personnel Records Review Act;
- (i) Information prohibited from being disclosed by the Illinois School Student Records Act;
- (j) Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act.
- (k) Names and information of people who have applied for or received Firearm Owner's Identification ("FOID") Cards under the Firearm Owners Identification Card Act (P.A. 097-0080).
- [5 ILCS 140/7.5(f),(i),(j),(k),(l),(o),(p),(q),(r),(s),(v)]
- (l) Personally identifiable information which is exempted from disclosure under Subsection (g) of Section 19.1 of the Illinois Toll Highway Act. (P.A. 97-0342)

~~135.09: INTENT TO DENY RECORDS: If the Village intends to deny a FOIA request, in whole or in part, pursuant to 5 ILCS 140/7(1)(e) (related to personal information) or 5 ILCS 140/7(1)(f) (related to drafts, notes, recommendations, memoranda where opinions are expressed or policies or actions formulated), the FOIA Officer shall, within the time period(s) provided for responding to a request, send written notice of its intent to deny the request, in whole or in part, in the form of a "Notice of Intent to Deny Request for Records" to the Public Access Counselor ("PAC"), with a copy to the requester. The address of the PAC is:~~

Public Access Counselor	Public Access Counselor
Office of the Attorney General	Office of the Attorney General
100 West Randolph, 12th Floor	500 S. 2nd Street
Chicago, IL 60601	Springfield, IL 62706
Tel. (312) 814-5526	Tel. (877) 299-3642
	Fax: (217) 782-1396
	E-mail: publicaccess@atg.state.il.us

~~The Notice of Intent to Deny Request for Records shall include: a copy of the FOIA request; the Village's proposed response; and a detailed summary of the Village's basis for asserting the exemption. Within 5 days of receipt of said notice of intent to deny access to records, the PAC shall notify the Village and the requester whether further inquiry is warranted.~~

' 35.09: DENIAL OF RECORDS; REQUEST FOR REVIEW BY PUBLIC ACCESS COUNSELOR ("PAC"):

- A. If information is requested for a commercial purpose, and the request is denied by the Village, the requester may not file a request for review with the Public Access Counselor ("PAC").
- B. If a request for information is treated by the Village as a request for a commercial purpose and the request is denied by the Village, the requester may file a request for review with the PAC for the limited purpose of reviewing whether the Village properly determined that the request was made for a commercial purpose.

' 35.10: DENIAL OF RECORDS; EXEMPTION(S): If requested information cannot be released due to its exempt nature, or if a request is unduly burdensome, the FOIA Officer, or his or her designee, shall complete a "Denial of Request for Records" form and mail same to the requester along with a blank "Notice of Appeal" form. The Denial of Request for Records form shall include: (i) the decision to deny the request; (ii) the reasons for the denial, including a detailed factual basis for the application of any exemption claimed; (iii) the names and titles or positions of each person responsible for the denial; (iv) the right to review by the Public Access Counselor, if applicable, and the address and phone number for the Public Access Counselor; and (v) the right to judicial review. If an exemption is claimed, then the denial shall include the specific reason(s) for the denial, including a detailed factual basis and a citation to support legal authority.

A copy of each such denial letter and the completed request form shall also be provided to the Village President and the Village Attorney. Copies of all notices of denial shall be retained by the FOIA Officer, or his or her designee, in a central file that is publicly accessible and indexed by type of exemption.

' 35.11: APPEAL TO DENIAL OF REQUEST: If a request for records is denied, and the requester has a right to seek judicial review of such denial pursuant to 5 ILCS 140/11, or has a right to seek judicial review of the Village's determination that the request was made for commercial purposes, ~~or~~ the requester may, within sixty (60) days from receipt of such denial, pursuant to 5 ILCS 140/9.5, file an appeal to the denial of production of records directed to the Illinois Public Access Counselor, whose address is:

Public Access Counselor
Office of the Attorney General
100 West Randolph, 12th Floor
Chicago, IL 60601
Tel. (312) 814-5526

Public Access Counselor
Office of the Attorney General
500 S. 2nd Street
Springfield, IL 62706
Tel. (877) 299-3642
Fax: (217) 782-1396
E-mail: publicaccess@atg.state.il.us

The Illinois Public Access Counselor will respond to such appeal and issue a binding opinion within sixty (60) days after the request for review (appeal) unless a request for extension of ~~twenty-one (21)~~ thirty (30) business days is given by the PAC. The PAC's binding opinion must make findings of fact and conclusions of law and shall be issued to the requester and public body. The PAC's binding opinion is subject to administrative review by either party.

'35.12: BINDING OPINION: A binding opinion issued by the Attorney General shall be considered final for the purpose of administrative review. Any action for administrative review of a binding opinion must be commenced in Cook or Sangamon County."

SECTION 3: The Corporate Authorities of the Village intend that this Ordinance will be made part of the Municipal Code and that sections of this Ordinance can be renumbered or relettered and the word "Ordinance" can be changed to "Section", "Article", "Chapter", or some other appropriate word or phrase to accomplish codification, and regardless of whether this Ordinance is ever codified, the Ordinance can be renumbered or relettered and typographical errors can be corrected with the authorization of the Village Attorney, or his or her designee.

SECTION 4: All rules, regulations, administrative procedures and ordinances inconsistent herewith are hereby repealed. This Ordinance shall not affect any punishment, discipline, infraction, or penalty or any action based on any other Ordinance of this Village incurred before the effective date of this Ordinance, nor any suit, prosecution or proceeding pending at the time of the effective date of this Ordinance, for an offense or violation committed or cause of action arising before this Ordinance, and said other ordinances as heretofore existing shall continue in full force and effect for said limited purpose.

SECTION 5: If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is, for any reason, held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance, or any part thereof. The Corporate Authorities hereby declare that they would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentence, clauses or phrases be declared unconstitutional, invalid or ineffective.

SECTION 5: This Ordinance shall be in full force and effect from and after its passage, approval and publication, as required by law.

SECTION 6: The Village Clerk is directed to immediately publish this Ordinance in pamphlet form.

PASSED this 17 day of October, 2011.

VOTE:

AYES: Finley, Sands(viacell), Czarnik, Thomason, Olson & Denny

NAYS: Ø

ABSENT: Ø

ABSTAIN: Ø

APPROVED this 17 day of October, 2011

Robert Kellermann
Robert Kellermann, Village President

ATTEST:
Elyse Schroeder
Village Clerk

PUBLISHED IN PAMPHLET FORM THIS 17 DAY OF October

