

VILLAGE OF INVERNESS RULES FOR FOIA REQUESTS

Pursuant to the Freedom of Information Act ("FOIA") (5 ILCS 140), the Village adopts the following rules. Inspection of or copies of records must be made in writing and directed to the Village's FOIA Officer, a suggested form is attached hereto and will be available for use by the public, but no standard form for such request is required. Requests may be made by appointment, mail, facsimile request, or personal delivery.

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.

A. INSPECTION OF RECORDS; TIME AND PLACE FOR INSPECTION:

The FOIA Officer or his or her designee shall obtain the file or files requested and allow the requester to inspect non-exempt records 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.

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.

Hours: Public records may only be inspected at the Village Hall, Monday through Friday (holidays excepted) during regular operating hours.

Business Days: Monday through Friday, when Village offices are open. Saturdays, Sundays, State and Village holidays are not business days and will not be counted in the five (5) business day time period.

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.

B. PROCEDURE FOR FULFILLING FOIA REQUESTS:

Upon receiving a FOIA request, the FOIA Officer, or his or her designee, shall:

- 1) Note the date the Village received the written request;

- 2) 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);
- 3) Maintain a paper copy of a written request, including all documents submitted with the request until the request has been complied with or denied; and
- 4) Meet with requesters, if necessary, to inspect records in his or her presence.
- 5) 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.
- 6) Assemble and duplicate the requested records, except for records which are exempt, and redact any records which may be partially exempt.
- 7) 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 therefore that said extension is granted, and/or that the Village intends to deny such request and, in certain instances, is so notifying the Illinois Public Access Counselor.

C. TIME FRAME FOR PRODUCTION OF RECORDS; EXTENSION OF TIME TO PRODUCE RECORDS:

Pursuant to the FOIA, the Village is 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.

Relative to requests for commercial purposes, the Village is required to produce the requested records within a “reasonable period” up to 21 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.

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.

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 mutually arranged within the prescribed time frame for the requester to return to receive a response to the request.

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).

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.

D. FEES; REQUESTS FOR WAIVER OF FEES:

Each requester is required to pay to the Village the appropriate fees for copies of Village records and will receive a receipt for same. 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: Except for commercial requests, there is no charge for providing the initial 50 pages, after which the cost will be \$.15 per page.

- 2) Color usually \$.20 per page: The fee for irregular sized, over sized and copies of microfiche files 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.

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.

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.

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.

E. 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)(c) (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:

Cara Smith
Public Access Counselor
Office of the Attorney General
500 South 2nd Street
Springfield, IL 62706
Phone: 312-814-5526 or
1-877-299-FOIA (1-877-299-3642)
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.

F. DENIAL OF RECORDS; EXEMPTION(S):

If requested information cannot be released due to its exempt nature, or if a request is unduly burdensome, or if the Village has no such record, the FOIA Officer, or his or her designee, shall complete a "Denial of Request for Records" form and mail same to the requester. 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 PAC and the address and phone number for the PAC; 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.

G. APPEAL TO DENIAL OF REQUEST:

If a request for records is denied, the requester has sixty (60) days from receipt of such denial, pursuant to 5 ILCS 140/9.5, to file an appeal to the denial of production of records directed to the Illinois Public Access Counselor, whose address is:

Cara Smith
Public Access Counselor
Office of the Attorney General
500 South 2nd Street
Springfield, IL 62706
Phone: 312-814-5526 or
1-877-299-FOIA (1-877-299-3642)
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. The PAC's binding opinion is subject to administrative review by either party.

A binding opinion issued by the Attorney General shall be considered final for purpose of administrative review. Any action for administrative review of a binding opinion must be commenced in Cook or Sangamon Counties.