

MANDATED POLICIES

APPENDIX "A"

EXEMPT MATERIALS PER THE FOIA (AS AMENDED 2009)

**Section 7 of FOIA:
General Exemptions**

1. The following shall be exempt from inspection and copying:
 - A. Information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law.
 - B. Private information, unless disclosure is required by another provision of this Act, a State or federal law or a court order.
 - C. 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.
 - D. Records in the possession of the Village created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but only to the extent that disclosure would:
 - i. 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;
 - ii. interfere with active administrative enforcement proceedings conducted by the Village that is the recipient of the request;
 - iii. create a substantial likelihood that a person will be deprived of a fair trial or an impartial hearing;
 - iv. 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;
 - v. 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;
 - vi. endanger the life or physical safety of law enforcement personnel or any other person; or

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- vii. obstruct an ongoing criminal investigation by the agency that is the recipient of the request.
- E. Records that relate to or affect the security of correctional institutions and detention facilities.
- F. Preliminary drafts, notes, recommendations, 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 Village President.
- G. 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 only insofar as the claim directly applies to the records requested.
 - i. All trade secrets and commercial or financial information obtained by the Village, 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. The exemption contained in this item does not apply to the aggregate financial performance information of a private equity fund, nor the identity of the fund's managers or general partners. The exemption contained in this item 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 paragraph (G) shall be construed to prevent a person or business from consenting to disclosure.
- H. Proposals and bids for any 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 contractor agreement with the Village, until an award or final selection is made. Information prepared by or for the Village in preparation of a bid solicitation shall be exempt until an award or final selection is made.
- I. Valuable formulae, computer geographic systems, designs, drawings and 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" provided in this paragraph 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.
- J. 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.

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- K. 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.
- L. Communications between the Village and its attorney or auditor representing the Village that would not be subject to discover in litigation, and materials prepared or compiled by or for the Village in anticipation of a criminal, civil or administrative proceeding upon the request of the Village Attorney advising the Village, and materials prepared or compiled with respect to internal audits of the Village.
- M. Records relating to the Village's adjudication of employee grievances or disciplinary cases; however, this exemption shall not extend to the final outcome of cases in which discipline is imposed.
- N. 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 exempt under this Section.
- O. Records relating to collective negotiating matters between the Village and its employees or representatives, except that any final contract or agreement shall be subject to inspection and copying.
- P. Test questions, scoring keys, and other examination data used to determine the qualifications of an applicant for a license or employment.
- Q. The 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 shall be 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 shall be exempt until a sale is consummated.
- R. 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. Insurance or self-insurance (including any intergovernmental risk management association or self-insurance pool) claims, loss or risk management information, records, data, advice or communications.
- S. Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of the Village responsible for the regulation or supervision of financial institutions or insurance companies, unless disclosure is otherwise required by State law.
- T. 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.
- U. 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 exempt under this item 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.
- V. 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.
 - W. 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 Power Agency or by the Illinois Commerce Commission.
2. A public record that is not in the possession of the Village but is in the possession of a party with whom the agency has contracted to perform a governmental function on behalf of the Village, and that directly relates to the governmental function and is not otherwise exempt under this Act, shall be considered a public record of the Village, for purposes of the FOIA.

**Section 7.5 of FOIA:
Statutory Exemptions**

To the extent provided for by the statutes referenced below, the following shall be exempt from inspection and copying:

- A. All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act [**20 ILCS 700/4002**].
- B. Library circulation and order records identifying library users with specific materials under the Library Records Confidentiality Act [**75 ILCS 70/1 et seq.**].
- C. Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.
- D. Information and records held by the Department of Public Health and its authorized representatives relating to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act [**410 ILCS 325/1 et seq.**].
- E. Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act [**420 ILCS 44/30**].
- F. Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [**30 ILCS 535/55**].
- G. Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act [**110 ILCS 979/50**].
- H. Information the disclosure of which is exempted under the State Officials and Employees Ethics Act [**5 ILCS 430/1 et seq.**], and records of any lawfully

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- created State or local inspector general's office that would be exempt if created or obtained by an Executive Inspector General's office under that Act.
- I. 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 **[65 ILCS 5/11-21.5-5]**.
 - J. Information and data concerning the distribution of surcharge moneys collected and remitted by wireless carriers under the Wireless Emergency Telephone Safety Act **[50 ILCS 751/1 et seq.]**.
 - K. 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 **[625 ILCS 5/11-212]**.
 - L. Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Board of Trustees under the Abuse Prevention Review Team Act **[210 ILCS 28/1 et seq.]**.
 - M. Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act **[765 ILCS 77/70 et seq.]**, except to the extent authorized under that Article.
 - N. Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act **[725 ILCS 124/10 and 725 ILCS 124/15]**. This subsection N. shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.
 - O. Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act **[410 ILCS 525/4]**.
 - P. 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 **[70-3615/2.11]** or the St. Clair County Transit District under the Bi-State Transit Safety Act **[45-111/1 et seq.]**.
 - Q. Information prohibited from being disclosed by the Personnel Records Review Act.
 - R. Information prohibited from being disclosed by the Illinois School Student Records Act **[105 ILCS 10/1 et seq.]**.
 - S. Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act **[220 ILCS 5/5-108]**.

(Ord. No. 10-01; 01-20-10)