

Village of Bloomingdale Administrative Policy

Title: Village Records
Chapter: FOIA Response Policy
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Approved By: Village Administrator
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I. Definition of a Public Record

A public record is defined in the Illinois Freedom Of Information Act (ILCS 5 140/1, et seq.), (the "FOIA") as "all records, reports, forms writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic and social media communications, recorded information and all other documentary materials pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of any public body."

Information can be made available in electronic as well as paper format, whenever possible.

II. Public Records That Do Not Require A FOIA Request

Many public records are posted on the Village website www.vil.bloomington.il.us and are available for viewing and to print without the necessity of a FOIA request being filed, including:

- A. A link to all Village Board and Commission meeting agendas and minutes (prior calendar year to present) is located in the lower left quadrant of the Village website homepage. Older agendas and minutes are readily available at the Village Hall without the necessity of a FOIA request being filed.
- B. All forms and documents posted in "Public Records A to Z" under "Government".
- C. Village Code posted in the lower left quadrant of the homepage and also under "Government"
- D. A listing of all Village ordinances and resolutions are posted on the Village website under "Government". Copies of all Village ordinances and resolutions are readily available at the Village Hall without the necessity of a FOIA request being filed.

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III. How A FOIA Request Is Made

- A. All FOIA requests must be in writing, and submitted through the Village's online FOIA request form (link located under both "How Do I" and "Government"; or submitted by mail, personal delivery, fax, e-mail, social media or other means available) and should be addressed to either the Village or Police Department FOIA Officers, (noted below).
- B. If the Village form is not used, the written request should list the public records sought with sufficient detail so the Village can locate the requested records, and should also include the requestors name, address, date of request, whether the request is for a "commercial purpose", whether you are the owner of the property in question, and a daytime phone number so the Village can make contact if there are any questions.
- C. To assist the requestor with this process, a copy of the Village's Public Records Request Form is attached to this policy and is also posted on the Village website; however, use of the form is optional.

IV. FOIA Officers

A. All Village, Police Pension Fund & Board Of Fire & Police Commission Records

Kate Buggy
Assistant Village Administrator/Director of Human Resources
201 S. Bloomingdale Road
Bloomingdale, IL 60108
buggyk@vil.bloomingdale.il.us

B. All Police Department Records as Processed & Maintained by the Police Department Records Division

Lynn Heitz
Police Records Supervisor
201 S. Bloomingdale Road
Bloomingdale, IL 60108
heitzl@vil.bloomingdale.il.us

- C. The FOIA Officers listed above are responsible for receiving FOIA requests for public records and to provide a response in compliance with the FOIA and this policy.

V. Documents Exempt From Release

The FOIA law has a presumption that all information is public, unless a public body proves otherwise. Several exemptions from public disclosure are set forth in the Exemptions Section of the FOIA (5 ILCS 140/7). A summary of applicable exemptions are listed below, but are not limited to:

- A. Information specifically prohibited from disclosure by federal or state law, rules or regulations.

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- B. Private information based on “unique identifiers, including a person’s social security number, driver’s license number, personal license plate number, home address, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal e-mail addresses.”, except as otherwise provided by law or when compiled without possibility of attribution to any person.”
- C. Personal information that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the person who is the subject of the information. Under FOIA, the “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.” Disclosing information that relates to the public duties of public employees is not considered an invasion of personal privacy.
- D. Law enforcement records that, if disclosed, would interfere with a pending or reasonably contemplated proceeding or that would disclose the identity of a confidential source.
- E. Information that, if disclosed, might endanger anyone’s life or physical safety.
- F. Preliminary drafts or notes in which opinions are expressed or policies are formulated, unless the record is publicly cited and identified by the head of the public body.
- G. Business trade secrets or commercial or financial information that is proprietary, privileged or confidential and disclosure would cause a competitive harm to the person or business.
- H. Proposals & bids for any contract, until a final selection is made.
- I. Valuable formula, computer geographic systems, designs, drawings and research data obtained or produced by any public body when disclosure could be reasonably expected to produce private gain or public loss.
- J. Various academic documents: test questions, scoring keys
- K. 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.
- L. 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.
- M. 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.

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- N. Records relating to a public body'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.
- O. 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.
- P. Records relating to collective negotiating matters between public bodies and their employees or representatives, except that any final contract or agreement shall be subject to inspection and copying.
- Q. Test questions, scoring keys, and other examination data used to determine the qualifications of an applicant for a license or employment.
- R. The records, documents, and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated.
- S. 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
- T. 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.
- U. 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.
- V. 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.
- W. 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.

VI. Unduly Burdensome and Voluminous Requests

- A. Unduly Burdensome - Requests that are considered to be "unduly burdensome." A request may be considered unduly burdensome if:

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1. There is no way to narrow the request, and the burden on the public body to produce the information outweighs the public interest in the information. Before claiming this exemption, the Village will provide the requestor with an opportunity to reduce the request to a manageable size.
2. Repeated requests from the same person for the same records that are unchanged or identical to records previously provided or properly denied.
3. Filed by a recurrent requestor, who in the prior twelve (12) months submitted;
 - i) A minimum of fifty (50) requests for records; and
 - ii) A minimum of fifteen (15) requests within a seven (7) day period.

The recurrent requestor restriction does not apply to news media and non-profit, scientific or academic organizations, provided the request is for a public information and/or educational purpose.

B. Voluminous Request

1. Includes more than 5 individual requests for more than 5 different categories of records or a combination of individual requests that total requests for more than 5 different categories of records in a period of 20 business days; or
2. Requires the compilation of more than 500 letter or legal-sized pages of public records unless a single requested record exceeds 500 pages. "Single requested record" may include, but is not limited to, one report, form, e-mail, letter, memorandum, book, map, microfilm, tape, or recording.
3. It does not include a request made by news media and non-profit, scientific, or academic organization purposes.

C. Village Response

1. Within 5 business days after receiving a request that has been determined to be either Unduly Burdensome and/or Voluminous, the FOIA Officer will notify the requester:
 - a) That the request is being treated as Unduly Burdensome and/or Voluminous;
 - b) The reasons why the request is being treated as such;
 - c) That the requester must respond to the public body within 10 business days after its notification was sent. The requester must specify whether he or she will amend the request so the public body no longer treats the request as Unduly Burdensome and/or Voluminous.
2. If the requester doesn't respond or if the request is still unduly burdensome after the requester's response the request will be denied on that basis.
3. If the requester doesn't respond or if the request is still Voluminous after the requester's response the request, the public body will respond and assess any fees in accordance with Section 6 of Public Act 98-1129.
4. If the requestor responds, and the request is no longer Unduly Burdensome and/or Voluminous, the Village will respond to the FOIA request within either
 - a) 5 business days after receipt of the requester's response

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- b) 5 business days from the last day for the requester to amend the request, whichever is sooner;
- c) Request an additional 5 business days to comply with the request.

VII. Redacted (Removed or Blacked-Out) Information

Information may be redacted from released public documents, if the redacted information is exempt from disclosure under FOIA, and the remaining information in the document remains intact.

VIII Timing of Village Response – Non-Commercial

- A. The Village has five (5) “*business days*” to respond to a request made for non-commercial purposes
 - 1. The five (5) business day response timeline begins the day after any employee or official of the Village receives the request for information. Village Employees must immediately forward all requests for information to the FOIA officer(s) to maximize the response time.
 - 2. A “business day” is a weekday (Monday through Friday) when the Village Hall is open, excluding holidays, when the Village Hall is not open.
- B. The Village shall respond to a non-commercial request with either:
The production of the public records requested, or
 - 1. If additional time is needed, the Village may extend the response time by an additional five (5) business days, (provided a notice of said extension to the requestor is provided within the five (5) business days) from the original due date, for one of the following reasons:
 - a) The requested information is stored at a different location;
 - b) The request requires the collection of a substantial number of documents;
 - c) The request requires an extensive search;
 - d) The requested records have not been located and require additional effort to find;
 - e) The requested records need to be reviewed by staff who can determine whether they are exempt from FOIA;
 - f) The requested records cannot be produced without unduly burdening the public body or interfering with its operations;
 - g) The request requires the public body to consult with another public body that has substantial interest in the subject matter of the request.
 - 2. Should additional time still be required to respond, the Village and the requestor can agree to an extended deadline beyond ten (10) days, however, it must be in writing.

IX Timing of Village Response – Commercial

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- A. The Village has twenty-one (21) business days to respond to a request for a commercial purpose. A request is considered to be for a commercial purpose when the requester seeks to use part or all of the public records for sale, resale, or solicitation or advertisement for sales or services. Requests by the news media, not-for-profit organizations, scientific or academic institutions are not considered commercial purpose requests.
- B. The Village shall respond to a commercial request with either:
 - 1. The production of the public records requested; or
 - 2. Providing the commercial requester with an estimate of the time required by the Village to provide the records requested and an estimate of the fees to be charged, which the Village may require to be paid in full before copying the requested documents, or
 - 3. Denying the request pursuant to one or more of the exemptions set out in the FOIA Act, or
 - 4. Notifying the commercial requester that the request is unduly burdensome and extend an opportunity to the commercial requester to attempt to reduce the request to manageable proportions.

X. Production Costs

- A. Photocopies
 - 1. Black and white, letter, legal or ledger sized copies (8 ½" x 11", 8 ½ "x 14" or 11" x 17"). No charge for first fifty (50) pages, fifteen cents (\$0.15) per page in excess of fifty (50) pages.
 - 2. Color copies, abnormal size copies, production in electronic format – Actual cost to the Village, excluding labor.
 - 3. The Village reserves the right to request advanced payment of copy fees for black and white copies in excess of fifty (50) pages, and for color copies, abnormal size copies and copies produced in an electronic format.
- B. Labor - Commercial requestors may be charged up to ten dollars (\$10.00) for each hour of staff time spent, over an initial eight (8) hour period, by Village staff searching for and retrieving a requested record(s).
- C. When a request is made to inspect public records that contain exempt information, and said records need to be copied in a special manner in order to redact exempt information before it can be viewed, a copy fee shall not be charged.
- D. Voluminous Records Fees:
 - 1. Electronic records and those records not in a portable document format (PDF), the fee is \$20 for not more than 2 megabytes of data, \$40 for more than 2 but not more than 4 megabytes of data, and \$100 for more than 4 megabytes of data.
 - 2. Electronic records and records in a portable document format, \$20 for not more than 80 megabytes of data, \$40 for more than 80 megabytes but not more than 160 megabytes of data, and \$100 for more than 160 megabytes of data.

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3. If the responsive electronic records are in both a portable document format and not in a portable document format, the public body may separate the fees and charge the requester under both fee scales.
- E. Accounting of Fees - If fees are to be imposed, the requester will be provided with an accounting of all fees, costs, and personnel hours in connection with the request for public records.

XI. Filing a Request for Review with the Public Access Counselor

Should the Village deny a request for a public document in whole or in part, the requestor may either:

- A. File a request for review with the Attorney General's Public Access Counselor (the "PAC") within sixty (60) calendar days after the date of the final denial from the Village, or the date upon which the response was due (Contact information for the PAC below);
or
- B. File a case in the 18th Judicial Circuit Court.

Public Access Bureau
500 S. 2nd Street
Springfield, Illinois 62706
217-558-0486
publicaccess@atg.state.il.us

Note: The review of commercial requests are limited to determining whether the Village accurately characterized the request as commercial.

For more information regarding the Attorney General's PAC review process, please refer to: *Frequently Asked Questions by the Public*, posted on the Village Website www.villageofbloomingdale.org