

**AN ORDINANCE ESTABLISHING PROVISIONS FOR COMPLIANCE
WITH THE ILLINOIS FREEDOM OF INFORMATION ACT**

WHEREAS, the Illinois General Assembly, through Public Act 96-0542, has substantially revised the Illinois Freedom of Information Act (the "Act"); and,

WHEREAS, the Act is intended to provide the public with greater access to the records of public bodies; and,

WHEREAS, it is necessary for the Village of Carpentersville to establish practices and procedures ensuring its full compliance with said Act, so that the public policy stated therein can be carried out effectively and efficiently with respect to the records of the Village; and

WHEREAS, the President and Board of Trustees find that the policies and procedures adopted herein will provide for uniform and correct processing of all requests for Public Records received by the Village pursuant to the Freedom of Information Act.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Carpentersville, Kane County, Illinois, as follows:

SECTION 1:

The Village Manager is hereby authorized to designate one or more Freedom of Information Officers of the Village. The Freedom of Information Officer(s) shall receive all requests submitted pursuant to the Act, shall ensure that the Village responds to all such requests in a timely manner, and shall issue all Village responses under the Act. The Freedom of Information Officer(s) shall report directly to the Village Manager. The Freedom of Information Officer(s) shall develop a list of documents or categories of records that the Village will immediately disclose upon request.

SECTION 2:

Upon receiving a written request for a Public Record, the Freedom of Information Officer(s) shall:

- a. Note the date the written request was received by the Village;
- 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 the 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 the original written request, a copy of the response, a record of written communications with the requestor, and a copy of other communications.

SECTION 3:

The Freedom of Information Officer(s) shall, on or before July 1, 2010, or within thirty (30) days of assuming their position, whichever is later, successfully complete an electronic training curriculum to be developed by the Public Access Counselor of the Office of the Attorney General and thereafter successfully complete an annual training program. In the event that said training is for any reason not available on or before July 1, 2010, the Freedom of Information Officer(s) shall complete such training as soon as practicable after it becomes available.

SECTION 4:

The Freedom of Information Officer(s) shall be responsible for displaying and making available, both at the Village Hall and on the Village's website, the following information:

- a. A brief description of the Village, which will include 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 its separate offices, the approximate number of full and part time employees, and the identification and membership of all subsidiary boards, commissions, committees or councils; and
- b. A brief description of the methods whereby the public may request information and Public Records, a directory designating the Freedom of Information Officer(s), the addresses where requests for Public Records should be directed, and any fees assessed under this Ordinance.

SECTION 5:

All requests for inspection or copies of Public Records shall be made in writing and directed to the Freedom of Information Officer. If more than one Freedom of Information Officer has been designated the request shall be made to the appropriate Freedom of Information Officer. Written requests may be submitted via personal delivery, mail, or facsimile. No standard form shall be required. Oral requests may, but shall not be required, to be honored.

Any Public Records which are the subject of a request under the Act shall be retrieved from the place that they are stored by the Freedom of Information Officer(s) or by an employee of the Village acting under the direction of the Freedom of Information Officer(s). In no event shall the records be retrieved by the party requesting them or by any other person who is not employed by the Village.

SECTION 6:

Responses to requests for access to Public Records shall be conducted in the following manner:

- a. Except as provided in the Act, the Village shall make available to any person for inspection and copying, all Public Records that are not exempt from disclosure under the Act, subject to the fee provisions contained herein, and shall certify any copies of Public Records upon request.
- b. The Village, through the Freedom of Information Officer(s), shall either comply with or deny a request for Public Records, other than requests made for a Commercial Purpose, within five (5) business days after its receipt of the request, unless the time for response is extended pursuant to the Act, or the requestor agrees to a further extension.
- c. The Freedom of Information Officer(s) shall review each request for Public Records and shall determine whether or not any of the requested records are exempt under the Act. Exempt records and Private Information shall not be produced. If any Public Record that is exempt from disclosure under the Act contains material that is not exempt, the Freedom of Information Officer(s) shall delete the exempt information and make the remaining information available.
- d. The time to respond may be extended by an additional five (5) business days from the original due date for any of the reasons set forth in the Act. When additional time is required for any of these reasons, the Freedom of Information Officer(s), or his or her designee, shall, within five (5) business days of the receipt of the request, notify the person making the request of the reasons for the extension and the date by which the response will be forthcoming.
- e. The Village shall require a requestor to specify whether the records are requested for a Commercial Purpose or whether a request has been made for a fee waiver.
- f. When a person requests a copy of a Public Record maintained in an electronic format, the Freedom of Information Officer(s) shall furnish it in the electronic format specified by the requestor, if feasible. The Village shall not be required to acquire any additional hardware or software in order to reproduce a document in a format not maintained by the Village. If it is not feasible to furnish the record in the specified electronic format, the Freedom of Information Officer(s) shall furnish it in the format in which it is maintained by the Village, or in paper format at the option of the requestor.
- g. The Freedom of Information Officer(s) shall respond to a request for Public Records to be used for a Commercial Purpose within twenty-one (21) days of the receipt of the request. The response to such a request shall (1) provide to the requestor an estimate of the time required by the Village to provide the records requested and an estimate of fees to be charged, which shall be paid in full before the Public Records are produced, (2) deny the request pursuant to one or more of the exemptions set forth in the Act, (3) notify the requestor that the request is unduly burdensome and extend an opportunity to the requestor to attempt to reduce the request to manageable proportions, or (4)

produce the records requested. Unless the records are exempt from disclosure, the Village shall comply with the request within a reasonable period of time considering the size and complexity of the request, and giving priority to records requested for non-commercial purposes.

- h. Requests calling for all records falling within a category shall be complied with unless compliance would be unduly burdensome, there is no way to narrow the request, and the burden on the Village outweighs the public interest in the information. The Freedom of Information Officer(s) shall extend to the requestor an opportunity to confer in an attempt to reduce the request to manageable proportions. This communication shall be in writing and shall specify the reasons why compliance with the request would be unduly burdensome.
- i. Any denial of a request for Public Records shall be in writing and shall be made by the Freedom of Information Officer(s), or his or her designee. The Freedom of Information Officer(s) shall notify the requestor of the decision to deny the request, the reasons for the denial, including a detailed factual basis for the application of any exemptions, and the names and titles of each person responsible for the denial. Each notice of denial shall also: (1) inform the requestor of the right to review by the Public Access Counselor and provide the address and phone number of the Public Access Counselor; (2) inform the requestor of his right to judicial review under Section 11 of the Act; and (3) specify the exemption under the Act that authorizes the denial, and the specific reasons for the denial, including a detailed factual basis and a citation to supporting legal authority.
- j. The Freedom of Information Officer(s) shall retain copies of all notices of denial in a single central office file that is open to the public and indexed according to the type of exemption asserted and, to the extent feasible, according to the types of records requested.
- k. If the Freedom of Information Officer(s) receives a request for Public Records that are exempt under subsection 1(c) or 1 (f) of Section 7 of the Act, he or she shall, within the time periods provided for responding to a request, provide written notice to the requestor and the Public Access Counselor of his intent to deny the request in whole or in part. This notice shall include:
 - (1) A copy of the request for access to records;
 - (2) The proposed response from the Village; and
 - (3) A detailed summary of the Village's basis for asserting the exemption.

The Village shall participate in the Public Access Counselor's inquiry, if any, pursuant to the Act. The time for response to the request shall be tolled until the Public Access Counselor concludes his or her inquiry.

- I. If a denial is appealed by the requestor to the Public Access Counselor, the Village shall participate in the appeal, if any, and may seek administrative review of any decision pursuant to the Act.
- m. The Freedom of Information Officer(s) may seek an advisory opinion from the Public Access Counselor regarding compliance with the Act. The Freedom of Information Officer(s) shall provide notice to any requestor in the event that an advisory opinion has been requested with respect to the request for Public Records.

SECTION 7:

The following chronologically maintained arrest and criminal history information, if maintained by the Village, shall be furnished as soon as practical, but in no event later than 72 hours after the arrest, notwithstanding the time limits otherwise provided for in the Act:

- a. Information that identifies the individual, including the name, age, address, and photograph, when and if available;
- b. Information detailing any charges relating to the arrest;
- c. The time and location of the arrest;
- d. The name of the investigating or arresting law enforcement agency; (i) if the individual is incarcerated, the amount of any bail or bond; and (ii) if the individual is incarcerated, the time and date that the individual was received into, discharged from, or transferred from the arresting agency's custody.

Information described in items a. through d. may be withheld if it is determined that disclosure would: (i) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement agency; (ii) endanger the life or physical safety of law enforcement or correctional personnel or any other person; (iii) compromise the security of any correctional facility or (iv) violate the confidentiality provisions of the Juvenile Court Act of 1987.

SECTION 8:

The Village shall charge fees reasonably calculated to reimburse its actual cost for reproducing and certifying Public Records and for the use, by any person, of the Village's equipment to copy records. Fees for documents fixed by state statute shall be charged at the rate so provided by said statute.

For records produced in electronic format, the Village shall charge the requestor for the actual cost of purchasing the recording medium, whether disc, diskette, tape, or other medium. Any statutory fees applicable to copies of records when furnished in paper format shall not be applicable to those records when furnished in electronic format.

No fees shall be charged for the first fifty (50) pages of black and white, letter or legal sized copies requested by a requestor. The fee for black and white, letter or legal

sized copies beyond the first fifty (50) pages shall be 15 cents per page, or such higher amount as may be allowed by law.

If records are produced in color or in a size other than letter or legal, the Village shall charge its actual cost for reproducing the records.

No fee shall be charged for the cost of any search for and review of the records or other personnel costs associated with reproducing the records.

The cost for certifying a Public Record shall be One Dollar (\$1.00) per record.

Fees may be waived by the Village if the Village determines that a waiver of fees is in the public interest based on the stated purpose of the request.

SECTION 9:

The provisions of this Ordinance shall be in full force and effect upon its passage, approval and publication, in accordance with law.

SECTION 10:

The invalidity of any section or provision of this Ordinance hereby passed and approved shall not invalidate other sections or provisions thereof.

Motion made by Trustee _____, seconded by Trustee _____, that the Ordinance be passed.

ADOPTED BY THE PRESIDENT AND BOARD OF TRUSTEES of the Village of Carpentersville, Illinois, at a regular meeting thereof held on the 5th day of January, 2010, pursuant to a roll call vote as follows:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED by me this ____ day of _____, 2010.

Village President

(SEAL)

ATTEST:

Village Clerk