

# **Elmhurst Park District Administrative Policy and Procedure Manual**

## **Section 1.12 - Freedom of Information Act (FOIA)**

The District will disclose public records as required by the Freedom of Information Act (FOIA) (5 ILCS140/1, *et seq.*). Records subject to disclosure include any materials prepared by, for, or in the possession of the District or in the possession of an agency/entity with whom the District has contracted to perform a governmental function on behalf of the District or that directly relates to the District's functions. The District can deny a request for records that are specifically exempt from coverage under the Act, including information that would constitute an unwarranted invasion of personal privacy or a compromise of security.

**FOIA Officers:** The Act requires that each public body appoint one or more FOIA Officers who annually complete an electronic training curriculum developed by the Illinois Attorney General's Office. Their responsibilities include receiving information requests from the public and sending responses in compliance with FOIA. The Board appointed FOIA Officers as defined by the Act are the Executive Director, Director of Finance and Human Resources and Administrative Office Manager.

**Submitting a Request:** To review a record, a person must submit a request in writing via personal delivery, mail, e-mail, telefax, or other means available to the public body. The District cannot require that the request be submitted on a standard form or that the requester specify the purpose of a request, except to determine whether the records requested are for a commercial purpose or whether to grant a request for a fee waiver. A commercial request is when the requestor seeks to use public records for the sale, resale or solicitation or advertisement for sales or services.

**Review and Response:** Within five business days after the date the District receives the request, one of the designated FOIA Officers reviews and responds to the request. If a public record is available on the District's website, the Officer directs the requestor to the website where the records can be reasonably accessed. If the requestor is unable to reasonably access the record online, the requestor may resubmit his/her request, and the Officer must then make the record available for inspection or copying. If the public record is not accessible, available online or in an electronic format, the Officer provides duplicate copies at no cost for the first fifty pages (in black and white, letter or legal size) and for \$0.15 per each additional page. For color and/or abnormally sized copies, the District charges the requestor the actual cost for making the copies.

If the request fits the FOIA definition of a voluminous request, the Officer must respond within 5 business days and notify the requestor that the request is being treated as a voluminous request and why. A voluminous request is defined as any request made by a person, other than the news media and non-profit, scientific or academic organizations, that (i) includes more than 5 individual requests for more than 5 different categories of records; (ii) includes a combination of individual requests that total requests for more than 5 different categories of records in a period of 20 business days; or (iii) requires the compilation of more than 500 letter or legal-sized pages of public records unless a single requested record, such as a memorandum, book or report, exceeds 500 pages. The law specifies the procedure for handling this type of request and the related fees that can be charged for copies of the requested records.

Beyond the five business days, the FOIA Officer can extend the response time for no more than five additional business days. Requests made for commercial purposes can be extended for no more than twenty-one additional business days. The time period can only be extended for the following reasons: if the requested information is stored at a different location, requires the collection of a substantial number of documents or an extensive search, has not been located, needs to be reviewed further by staff to determine whether they are exempt from FOIA, cannot be produced without unduly burdening the public body or interfering with its operations or requires the public body to consult with another public body that has substantial interest in the requested subject matter or both parties agree in writing to an extension specifying when the request will be filled. When additional time is required due to any of the reasons above, the Officer must, within 5 business days after 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. If the request is unduly burdensome for the District to complete, the Officer can work with the person making the request in an attempt to reduce the request to manageable proportions.

To delete exempt material or to deny the request, a FOIA Officer must provide a written response to the respondent that includes a detailed factual basis for the application of any exemption claimed as the reason for denying the request, a citation to supporting legal authority, and notice that the requestor has the right to review by the Public Access Counselor (PAC) in the Illinois Attorney General's Office and the right to challenge the denial in court. The response should clearly state the names and titles or positions of persons responsible for the denial. If the District intends to invoke either the "unwarranted invasion of personal privacy" exemption or the "preliminary drafts" exemption as a basis for denying a FOIA request in whole or in part, a FOIA Officer must notify both the requesting party and PAC. The PAC would then determine within five days whether further inquiry is required.

The Board President or Attorney can request that the Attorney General's PAC issue an advisory opinion regarding compliance with FOIA (i.e. to verify if a record must be disclosed). This request must be in writing.

***Penalty for Non-compliance:*** If a court determines that the District willfully and intentionally failed to comply with this Act or otherwise acted in bad faith, it can impose upon the District a civil penalty of not less than \$2,500 nor more than \$5,000 for each occurrence (considering the budget of the public body and whether the public body has previously been assessed penalties for violations of the Act). (5 ILCS 140)