

## COMPLIANCE WITH THE ILLINOIS “OPEN MEETING ACT”

### 1.0 Purpose:

- 1.1 To set forth policies governing compliance with the statutory requirements of Chapter 5, Section 120/1 et. seq. of the Illinois Compiled Statutes, commonly, and thereafter, referred to as “The Open Meetings Act.”

### 2.0 Scope:

- 2.1 “The Open Meetings Act” is summarized as follows:

*\*NOTE: The following language is not exactly the same as the Act.*

Sec. 120/1 -- It is the public policy of this State that the public bodies exist to aid in the conduct of the people’s business and that people have a right to be informed as to the conduct of their business. It is the intent of this Act that their actions be taken openly and that their deliberations be conducted openly.

A meeting is defined as any gathering, whether in person or by video or audio conference, telephone call, electronic means (such as, without limitation, electronic mail, electronic chat, and instant messaging), or other means of contemporaneous interactive communication, or a majority of a quorum of the members of the public body held for the purpose of discussing public business. Pursuant to P.A. 94-1058, Resolution #2007-01 was adopted in order to set rules for implementation of electronic meeting attendance by members of the public bodies. The policy is attached to this Directive in substantial form.

Sec. 120/2 -- All meetings of public bodies shall be public meetings except meetings held for the purpose of considering among others, the following matters (a) appointment, employment, compensation, discipline, performance or dismissal of specific employees of the public body, including the public body’s legal counsel (amended by P.A. 93-0057); (b) collective negotiating matters between the public body and its employees or their representatives or deliberations concerning salary schedules for one or more classes of employees; (c) the appointment of a member to fill a vacancy on a public body but only by that public body which has the power to appoint; (d) the hearing of evidence/testimony as a quasi-adjudicative body if the body prepares and makes available for public inspection a written decision and if the subject matter was otherwise appropriate for a closed session; (e) the purchase or lease of real property for use by the public body or to set a price for sale or lease of real property owned by the public body; (f) the sale or purchase of securities, investments or investment contracts; (g) emergency security procedures to respond to actual danger to safety of employees, staff or public property if a description of the danger is made a part of the motion to close the meeting; (h) the discussion of litigation when an action against, affecting or on behalf of the public body has been filed and is pending before a court or administrative tribunal or that action if probable or imminent, in which case the basis for the finding shall be entered into the minutes of the closed meeting; (i) the establishment of reserves or settle claims as provided in the Tort Immunity Act if otherwise the disposition of a claim might be prejudiced, or to review or discuss claims, loss or risk management information, records, data, advice, or communications from or with respect to any insurer of

public body or self insurance pool of which the body is a member; (j) conciliation of complaints of discrimination in sale or rental of housing, when closed meetings are authorized by law/ordinance prescribing fair housing practices and creating a commission or agency for their enforcement; (k) informant sources, hiring and assignment of undercover personnel or equipment related to criminal investigations; (l) professional ethics or performance when considered by an advisory body appointed to advise a licensing or regulatory agency on matters germane to the body's field of competence; (m) self-evaluation practices and procedures or professional ethics when meeting with a representative of a state-wide association of which the body is a member; (n) the minutes of meetings lawfully closed under the Act either for approval by the body of the minutes or for the semi-annual review of minutes required by the Act.

Sec. 120/2a A public body may hold a meeting closed to the public, or close a portion of a meeting to the public, upon a majority vote of a quorum present, taken at a meeting open to the public for which notice has been given as required by this Act. A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, provided each meeting in such series involves the same particular matters and is scheduled to be held within no more than 3 months of the vote. The vote of each member on the question of holding a meeting closed to the public and a citation to the specific exception contained in Section 2 of this Act which authorizes the closing of the meeting to the public shall be publicly disclosed at the time of the vote and shall be recorded and entered into the minutes of the meeting. Nothing in this Section or this Act shall be construed to require that any meeting be closed to the public. Only topics specified in the vote to close under this paragraph may be considered during the closed meeting.

Sec. 120/2.01 -- All meetings required by this Act to be public shall be held at specified times and places which are convenient and open to the public. No meeting required by this Act to be public shall be held on a legal holiday unless the regular meeting day falls on that holiday.

Sec. 120/2.02 -- Public notice of all meetings, whether open or closed to the public, shall be given as follows:

- (a) Every public body shall give public notice of the schedule of regular meetings at the beginning of each calendar or fiscal year and shall state the regular dates, times and places of such meetings. An agenda for each regular meeting shall be posted in accordance with the posting notice procedure specified in subsection (b) at least 48 hours in advance of the holding of the meeting. The requirement of a regular meeting agenda shall not preclude the consideration of items not specifically set forth in the agenda. Public notice of any special meeting except a meeting held in the event of bona fide emergency, or of any rescheduled regular meeting, or of any reconvened meeting, shall be given at least 48 hours before such meeting, which notice shall also include the agenda for the special, rescheduled or reconvened meeting, but the validity of any action taken by the public body which is germane to a subject on the agenda shall not be affected by other errors or omissions in the agenda. The requirement of public notice of reconvened meetings does not apply to any case where the meeting was open to the public and (1) it is to be reconvened with 24 hours, or (2) an announcement of the time and place of the reconvened meeting was made at the original meeting and there is no change in the agenda. Notice of an emergency meeting shall be given as soon as practicable, but in any event prior to the holding of such meeting, to any news medium which has filed an annual request for notice under subsection (b) of this Section.

- (b) Public notice shall be given by posting a copy of the notice at the principal office of the body holding the meeting or, if no such office exists, at the building in which the meeting is to be held. The body shall supply copies of the notice of its regular meetings, and of the notice of any special, emergency, rescheduled or reconvened meeting, to any news medium that has filed an annual request for such notice. Any such news medium shall also be given the same notice of all special, emergency, rescheduled or reconvened meetings in the same manner as is given to members of the body provided such news medium has given the public body an address or telephone number within the territorial jurisdiction of the public body at which such notice may be given.

Sec. 120/2.06 --

- (a) All public bodies shall keep written minutes of all their meetings, whether open or closed. Such minutes shall include, but need not be limited to:
  - (1) the date, time and place of the meeting;
  - (2) the members of the public body recorded as either present or absent; and
  - (3) a summary of discussion on all matters proposed, deliberated, or decided, and a record of any votes taken.
- (b) The minutes of meetings open to the public shall be available for public inspection within 7 days of the approval of such minutes by the public body. Minutes of meetings closed to the public shall be available only after the public body determines that it is no longer necessary to protect the public interest or the privacy of an individual by keeping them confidential.
- (c) Each public body shall periodically, but no less than semi-annually, meet to review minutes of all closed meetings. At such meetings a determination shall be made, and reported in an open session that (1) the need for confidentiality still exists as to all or part of those minutes or (2) that the minutes or portions thereof no longer require confidential treatment and are available for public inspection.

2.2 It is the stated intent of The City of Lake Forest to comply with the provisions of “The Open Meetings Act.”

### 3. Recording of Closed Meetings:

- 3.1 The Verbatim Records Act, P.A. 93-0523, effective January 1, 2004, requires all public bodies<sup>1</sup> to create a verbatim record of all closed meetings in the form of an audio or video recording. Resolution #2003-20 sets forth the City’s Closed Session Minutes and Verbatim Records Policy. The Policy is attached to this Directive in substantial form.

## 4.0 **Action:**

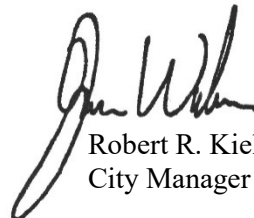
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<sup>1</sup> A public body includes “all legislative, executive, administrative or advisory bodies of the State, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State, and any subsidiary bodies of any of the foregoing including but not limited to committees and subcommittees which are supported in whole or in part by tax revenue, or which expend tax revenue...” 5 ILCS 120/1.02. Thus, even though many subsidiary bodies of a local government will have only rare occasion to enter into a closed session meeting, such subsidiary bodies must still comply with all OMA requirements.

- 4.1 Open Meetings: All meetings (whether open or closed to the public) shall be conducted pursuant to the provisions of the Opening Meetings Act.
- 4.2 Notice Required: Pursuant to the Open Meetings Act, public notice of all meetings shall be given as follows:
  - 4.2.1 Additional Notice to be Posted: Public notice shall be given by furnishing a copy to the City Clerk, well in advance but in no circumstances less than 48 hours prior to the scheduled start of any public meeting, of a notice substantially the same as the sample form attached hereto as Annex A. The City Clerk shall be responsible for posting and distributing the notice pursuant to the provisions of the Open Meetings Act.
- 4.3 Determination of Confidentiality: The City Council shall meet every six months to review minutes of all closed meetings and to determine that (1) the need for confidentiality still exists as to all or part of those minutes or (2) the minutes or portions thereof no longer require confidential treatment and are available for public inspection. The Council's findings will be reported in open session.
- 4.4 Failure to Comply with Provisions: Any public meeting for which proper notice pursuant to the Open Meetings Act has not been given shall not be held until such time as the Deputy City Clerk shall be satisfied that proper notice has been given.

**5.0 Distribution:**

- 5.1 This Administrative Directive shall be distributed to all department heads and staff members, including School District 67 Superintendent and Library Director.



Robert R. Kiely, Jr.  
City Manager

## PROCEDURES FOR ELECTRONIC ATTENDANCE AT MEETINGS

### Qualifications

A Board member may attend a meeting of that Board electronically only if the member is physically prevented from attending the meeting for one of the following reasons:

- Personal illness or disability;
- Employment purposes or the business of the City; or
- A family or other emergency.

### Procedures

A. Notice to the Clerk. The Board member must notify the City Clerk in writing at least 4 hours prior to the meeting unless advance notice is impractical. The Board member shall complete the form attached. If the Board member is not able to provide written notice prior to the meeting, the member shall notify the Clerk by other means prior to the meeting and shall submit the required written notice as soon as possible following the meeting.

B. Determination of Authorization of Electronic Attendance. Upon receipt of the notice, the Clerk shall promptly forward the notice to the presiding officer of the Board. After establishing that a quorum of the Board is physically present at the meeting, the presiding officer shall state that:

- A notice was received by a Board member; and
- The member is authorized to attend the meeting unless there is a motion objecting to the member's electronic attendance. The motion must be seconded and approved by two-thirds of the members physically present of the meeting.

### Special Rules

A. A quorum must be physically present at the meeting. The Chairman will then clearly identify for the record who will be attending the meeting electronically.

B. The member attending electronically must identify himself before he wishes to speak and be recognized by the Chairman.

C. The speech of the member attending electronically must be amplified where members of the public are able to hear what is being said.

D. The minutes of the meeting should identify which members were physically present at the meeting, and which attended electronically. It should also list that there were no objections to the attendance, and the electronic means by which the member attended (i.e. speaker phone).

*Note: In the case of a bona fide disaster, this policy does not apply.*

**FORM OF NOTICE**

I, \_\_\_\_\_, am a member of the City's \_\_\_\_\_, a Public Body.  
In accordance with Subsection IV.A of the City's "Electronic Attendance at Meetings Policy," I am submitting this notice evidencing my desire to electronically attend the \_\_\_\_\_, 20\_\_\_\_, meeting of the Public Body. I am physically prevented from attending that meeting due to one or more of the following circumstances:

- \_\_\_\_\_ Personal illness or disability
- \_\_\_\_\_ Employment purposes or the business of the public body
- \_\_\_\_\_ A family or other emergency.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

**THE CITY OF LAKE FOREST  
CLOSED SESSION MINUTES AND VERBATIM RECORDS POLICY**

- I. BACKGROUND AND PURPOSE. The Open Meetings Act requires all public bodies to keep minutes of their meetings, whether opened or closed. With the adoption of amendments to Section 2.06 of that Act, 5 ILCS 120/2.06, public bodies also must maintain a verbatim record of all closed meetings in the form of an audio or video recording. This Policy sets forth specific procedures to ensure that the Lake Forest City Council—and all committees of the Council, other boards, other committees, commissions, and other bodies of the City that are subject to the Open Meetings Act (“Subsidiary Bodies”)—comply with the requirements for closed sessions.
- II. CLOSED MEETING MINUTES. Minutes of a closed meeting shall comply with the same requirements applicable to minutes for an open meeting. They shall include, at a minimum, the date, time, and place of the meeting; the members of the public body that are present and those that are absent; a summary of discussion on all matters proposed, deliberated, or decided; and a record of any votes taken. The Open Meetings Act exemption or exemptions applicable to the closed session should be identified in the minutes of the closed session. Minutes of closed meetings shall not be released for public inspection to the extent that there is a need to preserve confidentiality of matters stated in those minutes.
- III. CLOSED MEETING VERBATIM RECORDS. A verbatim record of each closed meeting is required and shall be subject to the following requirements:
- A. Recordings. Verbatim records shall be made by audio or video recording. Each recording shall be labeled with the name of the meeting body and the date, time, and place of the meeting. A statement identifying each participant and the purposes for the closed meeting should be made at the beginning of the closed meeting.
- B. Confidentiality. All verbatim records of closed meetings are hereby declared to be confidential and not subject to release except pursuant to this Policy or as required by law.
- C. Duties of Clerk or Designee. The Clerk, or her or his designee, shall be responsible for creating the verbatim record. After a closed meeting, the verbatim record shall be delivered immediately to the Clerk for storage in a secure location within the City Hall. The Clerk shall be responsible for maintaining, storing, and restricting access to all verbatim records.
- D. Access to Verbatim Records. No individual, nor the City Council, nor any Subsidiary Body shall have access to any verbatim record of any closed session unless approved by one of the following specific methods:
1. Individual Access. Unless otherwise required by law, no individual, including any member of the City Council or any Subsidiary Body, shall have access to any verbatim record unless specifically approved by an affirmative majority vote of the City Council taken at an open meeting. An individual who is granted the right to access a verbatim record shall do so only at the City Hall and in the presence of the Clerk or her or his designee. No verbatim record shall be copied or taken out of the City Hall except as specifically allowed in this Policy or as otherwise required by law.
  2. Subsidiary Body Review. A Subsidiary Body may access a verbatim record of one of its closed meetings only by an affirmative majority vote, taken at an open

meeting, of all members of that Subsidiary Body then holding office. A Subsidiary Body shall review a verbatim record only at a duly noticed closed meeting of that Subsidiary Body.

3. City Council Access. The City Council may access a verbatim record of one of its closed meetings or of a closed meeting of any Subsidiary Body only by an affirmative majority vote of the City Council taken at an open meeting. The City Council shall review a verbatim record only at a duly noticed closed meeting of the Council.
  4. Clerk. The Clerk shall have access at all times to all verbatim records for purpose of ensuring their proper care and protection. The Clerk may review a verbatim record, however, only if authorized to do so by an affirmative majority vote of the City Council taken at an open meeting.
  5. Court. If the City is directed by a court order issued in accordance with Section 2.06 of the Open Meetings Act, 5 ILCS 120/2.06, to deliver a verbatim record, then the Clerk or her or his designee shall deliver the relevant verbatim record to the court, after that record has been reviewed by the City Attorney.
- E. Verbatim Record Not Official Record. A verbatim record shall not be part of the official public record of any meeting. Rather, the approved minutes are to be deemed the official record of the meeting.
- F. Notification of Destruction of Verbatim Record. On a regular basis, the Clerk shall provide a written notice listing all verbatim records that are scheduled for destruction (the "Notice of Destruction"). The Notice shall be in a form substantially the same as the form attached as Exhibit A to this Policy. The Notice shall be given to (1) the members of the City Council, (2) the members of the Subsidiary Body (if the verbatim record was created at a closed meeting of that Subsidiary Body), (3) the City Manager, and (4) the City Attorney. The Notice shall include a copy of the approved minutes for each verbatim record scheduled for destruction.
- G. Objection to Destruction.
1. Deadline for Objection. A written objection to the destruction of a verbatim record shall be filed with the Clerk within seven days after the date of a Notice of Destruction, or at least three days before the destruction date set forth in that Notice, whichever is later.
  2. Who May Object. The Mayor or any alderman may object to the destruction of any verbatim record of a closed session of the City Council or of any Subsidiary Body. A member of a Subsidiary Body may object to destruction of a verbatim record only of a closed session of that Subsidiary Body.
- H. Destruction of Verbatim Record if No Objection. Unless a timely written objection to the destruction of a verbatim record is filed with the Clerk in accordance with Section III.G of this Policy, the Clerk shall erase or otherwise destroy each verbatim record listed in the Notice of Destruction on the date set forth in the Notice. No verbatim record shall be erased or otherwise destroyed unless the Clerk certifies that (1) the verbatim record was created at a closed meeting that was concluded at least 18 months prior to the date of destruction and (2) there exists approved minutes of that closed meeting.



- I. Procedure When Objection. The following procedure shall apply when a timely objection to destruction is received by the Clerk:
  1. Notice of Objection. The Clerk shall promptly send notice of the objection to all parties who received the Notice of Destruction.
  2. Deliberation on Objection. At a closed session of the City Council or Subsidiary Body scheduled promptly after receipt of an objection, the City Council or Subsidiary Body shall determine whether destruction of the verbatim record should be delayed. That decision shall require the vote set forth in the next Section III.I.3 of this Policy. If the required vote to delay destruction is not obtained, then the verbatim record shall be destroyed immediately by the Clerk in accordance with Section III.H of this Policy; provided, however, that no verbatim record of a Subsidiary Body shall be destroyed if either the Subsidiary Body or the City Council votes to delay its destruction.
  3. Required Vote to Delay Destruction. The destruction of a verbatim record shall be delayed only if: (i) the City Council, by an affirmative majority vote, or (ii) the Subsidiary Body, by an affirmative vote of three-fourths of the members of the Subsidiary Body then holding office, authorizes delay of that destruction.
- J. Procedure When Destruction Delayed. If the destruction of a verbatim record has been delayed pursuant to Section III.I of this Policy, then the City Council and/or the Subsidiary Body, if any, that voted to delay destruction shall review the verbatim record in closed session. After that review, the reviewing body shall determine either: (1) that the verbatim record should be destroyed, or (2) that the verbatim record may be released pursuant to Section IV of this Policy, or (3) that the destruction of the verbatim record ought to be delayed to a date certain.

No verbatim record shall be destroyed if the City Council or the Subsidiary Body, if any, determines that destruction should be delayed or released pursuant to Section IV of this Policy.

If destruction of a verbatim record is delayed to a date certain, then the Clerk shall provide a new Notice of Destruction for that verbatim record in accordance with Section III.F of this Policy.

IV. Review and Release of Closed Meeting Minutes and Verbatim Records.

- A. Review of Minutes. Not less than twice each year, the City Council and each Subsidiary Body shall review its closed meeting minutes to determine if they are eligible for release to the public. In its review, the City Council or Subsidiary Body shall determine if the minutes contain information that continue to require confidential treatment. Only portions of written minutes that no longer require confidential treatment shall be released. Written minutes shall not be released unless approved by an affirmative majority vote of the City Council or Subsidiary Body taken in public session.
- B. Review of Verbatim Records. Pursuant to Section III.B of this Policy, verbatim records always are *per se* confidential. Not less than twice each year, the Clerk shall provide a list to the City Council and to the relevant Subsidiary Body of existing verbatim records, the review of which list by the Clerk, by the City Council, and by the Subsidiary Body, if any, shall constitute review of the verbatim records. The City Council or the relevant Subsidiary

Body may undertake a further review a verbatim record, but only in accordance with Section III.D of this Policy. After review of the verbatim record, the City Council or the Subsidiary Body shall require that the verbatim record remain confidential unless, after reviewing the verbatim record in its entirety, the verbatim record is approved for release by an affirmative majority vote of the City Council or, for a verbatim record of a Subsidiary Body, by an affirmative vote of three-fourths of the members of that Subsidiary Body then holding office. All such votes shall be taken in open session.

**EXHIBIT A**

**NOTICE OF PENDING DESTRUCTION OF VERBATIM RECORDS**

*[DATE]*

To: City Council  
*[Relevant Subsidiary Body]*  
City Manager  
City Attorney

Subject: Notice of Impending Destruction of Verbatim Records

***CONFIDENTIAL/PRIVILEGED***

As required by the Illinois Open Meetings Act, the Office of the Clerk has been charged with the safekeeping of all verbatim records of all closed meetings of the City Council and other bodies of the City subject to the Illinois Open Meetings Act.

Pursuant to the Open Meetings Act and to the “Closed Session Minutes and Verbatim Records Policy” of the City (the “Policy”), the confidential verbatim records listed below are eligible for destruction.

<u>Public Body</u>	<u>Date of Meeting</u>	<u>Proposed Destruction Date</u>

I hereby certify that (1) the relevant public bodies have previously approved written minutes of the closed meetings to which the verbatim records listed in this Notice were prepared and that those minutes are attached, and (2) the closed meetings to which the verbatim records listed in this Notice relate were concluded at least 18 months prior to the Proposed Destruction Date for those verbatim records.

The Office of the Clerk shall destroy the verbatim records listed in this Notice in accordance with the Policy, unless a written objection is filed with the Office of the Clerk within seven days after the date of this notice or not less than three days prior to the Proposed Destruction Date set forth above, whichever is later.

\_\_\_\_\_  
City Clerk