

**CHAPTER 22**

**MANDATED POLICIES**

**ARTICLE I – IDENTITY THEFT PREVENTION POLICY**

**22-1-1**     **ADOPTION.**   An identity theft prevention program is hereby adopted by the Village of Lovington pursuant to and in compliance with the identity theft rules of the Federal Trade Commission (FTC), Part 681 of Title 16 of the Code of Federal Regulations (16 CFR Part 681).

**22-1-2**     **TREASURER - ADMINISTRATOR.**   The Village Treasurer shall be appointed the program administrator. It shall be the responsibility of the program administrator to develop, implement, administer, and provide oversight of the program, and he/she may, but shall not be required to, appoint a committee to administer said program. The program administrator shall be the head of such committee. The program administrator will report at least annually to the Village Board regarding compliance with said program.

**22-1-3**     **IMPLEMENTATION.**   The identity theft prevention program to be implemented by the Village shall be in the form suggested by the Illinois Municipal Utilities Association as provided, a copy of which is attached hereto. Any major changes or shifts of policy positions under said program shall only be made by the Village Board. **Appendix "A"** shall be incorporated as part of this Article.

## ARTICLE II - FREEDOM OF INFORMATION PROCEDURES

**22-2-1**     **DEFINITIONS.** For the purposes of this Article the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A)           **Public Body** means all legislative, executive, administrative, or advisory bodies of the State, state universities and colleges, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees, or commissions of this State, any subsidiary bodies of any of the foregoing including but not limited to committees and subcommittees thereof, and a School Finance Authority created under Article 1E of the School Code. "Public body" does not include a child death review team or the Illinois Child Death Review Teams Executive Council established under the Child Death Review Team Act.

(B)           **Freedom of Information Act** means the Illinois Freedom of Information Act, **5 ILCS Sec. 140/1.1 et seq.**

(C)           **Person** means any individual, corporation, partnership, firm, organization, or association, acting individually or as a group.

(D)           **Public Records** means all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic 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.

(E)           **Private Information** means unique identifiers, including a person's social security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person.

(F)           **Commercial purpose** means the use of any part of a public record or records, or information derived from public records, in any form for sale, resale, or solicitation or advertisement for sales or services. For purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered to be made for a "commercial purpose" when the principal purpose of the request is (i) to access and disseminate information concerning news and current or passing events, (ii) for articles of opinion or features of interest to the public, or (iii) for the purpose of academic, scientific, or public research or education.

(G)           **Copying** means the reproduction of any public record by means of any photographic, electronic, mechanical or other process, device or means now known or hereafter developed and available to the public body.

(H) **Head of the public body** means the president, mayor, chairman, presiding officer, director, superintendent, manager, supervisor or individual otherwise holding primary executive and administrative authority for the public body, or such person's duly authorized designee.

(I) **News media** means a newspaper or other periodical issued at regular intervals whether in print or electronic format, a news service whether in print or electronic format, a radio station, a television station, a television network, a community antenna television service, or a person or corporation engaged in making news reels or other motion picture news for public showing.

**22-2-2 POLICY.** It is declared to be the public policy of the Village that all persons are entitled to full and complete information regarding the affairs of the Village. The official acts and policies of the public officials and public employees of the Village shall be consistent with the terms of this Article.

**22-2-3 INDIVIDUAL PRIVACY PROTECTED.** This Article is not intended to be used to violate individual policy, nor for the purpose of furthering a commercial enterprise, or to disrupt the duly undertaken work of the Village.

**22-2-4 PUBLIC RECORDS AVAILABLE.** The Village shall make available to any person for inspection or copying all public records, as provided in the Freedom of Information Act.

**22-2-5 FREEDOM OF INFORMATION ACT OFFICER.** The Billing Clerk is hereby designated as the FOIA Officer to whom all initial request for access to the records of the Village are to be referred. Such requests are to be made at the office of the Billing Clerk between the hours of **8:00 a.m. – 12:00 p.m. (noon)**, Monday through Friday. In the event that the Billing Clerk is not available during the times described above the Village Clerk is designated as the Deputy FOIA Officer to whom such initial requests are to be made. Except in instances where records are furnished immediately, the FOIA Officer or his or her designee shall receive requests submitted to the Village under the Freedom of Information Act, to insure that the Village responds to requests in a timely fashion, and issue responses under the Act. The FOIA Officer shall develop a list of documents or categories of records that the Village shall immediately disclose upon request.

**22-2-6 ACTION UPON RECEIPT OF REQUEST.** Upon receiving a request for public record, the FOIA Officer shall: (1) note the date the Village receives the written request; (2) compute the day on which the period for which response will expire and make a notation of that date on the written request; (3) maintain an

electronic or paper copy of a written request, including all documents submitted with the request until the request has been complied with or denied; and (4) create a file for the retention of the original request, a copy of the response, a record of written communications with the requestor, and a copy of other communication.

**22-2-7**      **FOIA OFFICER TRAINING.** The FOIA Officer and Deputy FOIA Officers shall, within **six (6) months** after **January 1, 2010**, successfully complete an electronic training curriculum to be developed by the Public Access Counselor of the State of Illinois and thereafter successfully complete an annual training program. Whenever a new Freedom of Information Officer is designated by the Village, that person shall successfully complete the electronic training curriculum within **thirty (30) days** after assuming the position.

**22-2-8**      **RETRIEVAL OF RECORDS.** Any records which are the subject of a request under the Freedom of Information Act shall be retrieved from such place as they are stored, by the FOIA Officer, or by an employee of the Village acting under the direction of the FOIA Officer. In no event shall records be retrieved by the party requesting them or by any person who is not employed by the Village.

**22-2-9**      **FEES.** If copies of records are requested, the fees for such copies, whether certified or not, shall be as determined from time to time by the FOIA Officer pursuant to Section 6(b) of the Freedom of Information Act. The FOIA Officer shall maintain a written schedule of current fees in the office of the FOIA Officer. The fees so charged shall reflect the actual cost of copying the records, and the cost of certifying copies, if certification is requested.

(A)            The Village hereby establishes and 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 equipment of the Village to copy records. Such fees exclude the costs of any search for and review of the record, and shall not exceed the actual cost of reproduction and certification, unless otherwise provided by state statute. No fees shall be charged for the first **fifty (50) pages** of black and white, letter or legal size copies requested by a requestor. The fee for black and white, letter or legal size copies shall not exceed **Fifteen Cents (\$0.15)** per page. The charge for color copies or any size other than letter or legal shall be the actual cost for reproducing the said records but shall not include the cost of any search for and review of the records or other personnel costs associated with reproducing said records. The costs of certifying records shall not exceed **One Dollar (\$1.00)**. The charge for computer printouts shall be **Fifteen Cents (\$0.15)** per page and the actual cost of purchasing the recording medium, whether disc, diskette, tape, or other medium. In addition thereto, the actual cost of postage for mailing said documents to any requestor shall be an additional charge hereunder. All fees shall be due and owing on the date the copies of said records are furnished to the requestor.

(B) Documents shall be furnished without charge or at a reduced charge where the Village determines that waiver or reduction of the fee is in the public interest because furnishing information can be considered as primarily benefiting the general public. Waiver or reduction of the fee is in the public interest if the principal purpose of the request is to access and disseminate information regarding the health, safety and welfare or the legal rights of the general public and is not for the principal purpose of personal or commercial benefit. In setting the amount of the waiver or reduction, the Village may take into consideration the amount of materials requested and the cost of copying them.

**22-2-10 DENIAL OF REQUEST.** In the event that a request to inspect Village records is denied by the FOIA Officer, the denial may be appealed to the Public Access Counselor of the State of Illinois.

**22-2-11 REQUESTS TO BE IN WRITING.** All requests for inspection or copying of public records shall be in writing and shall be addressed to the FOIA Officer. The requestor shall include the following information in any request for public records:

- (A) The requestor's full name, mailing address and telephone number at which the requestor can be reached during normal business hours;
- (B) A description of the records sought, being as specific as possible;
- (C) A statement as to whether the request is for inspection, copying, or both.

The FOIA Officer shall make available a form for use by requestors; however, no request shall be denied for failure to use the form.

**22-2-12 TIME LIMIT FOR COMPLIANCE WITH REQUEST.** The Village shall either comply with or deny a request for public records within **five (5) working days** after its receipt unless the time for response is properly extending under Section 3(e) of the Freedom of Information Act (**5 ILCS 140/3(e)**). Denials shall be in writing and in accordance with Section 9 of the Freedom of Information Act (**5 ILCS 140/9**).

**22-2-13 EXTENSION OF TIME LIMIT; NOTICE.**

(A) The time limit prescribed in **Section 22-2-12** shall be extended in each case for not more than **five (5)** additional working days for any of the following reasons:

- (1) The requested records are stored in whole or in part at other locations.
- (2) The request requires the collection of a substantial number of records.
- (3) The request is categorical in nature and requires an extensive search for the records responsive to it.

- (4) The requested records have not been located in the course of routine search and additional efforts are being made to locate them.
- (5) The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under Section 7 of the Illinois Freedom of Information Act (**5 ILCS 140/7**) or should be revealed only with appropriate deletions.
- (6) The request for records cannot be complied with by the Village within the time limits prescribed by the foregoing paragraph without unduly burdening or interfering with the Village.
- (7) There is a need for consultation, which shall be conducted with all practical speed, with another public body or among **two (2)** or more components of a public body having a substantial interest in the determination or in the subject matter of the request.

(B) When additional time is required for any of the above reasons, the FOIA Officer shall notify the person making the request, by letter, within the time limits specified in this Section, of the reasons for the delay and the date by which the records will be made available or denial will be forthcoming. In no instance may the delay in processing last longer than **five (5) working days**. A failure to render a decision within **five (5) working days** shall be considered a denial of the request.

**22-2-14 UNDULY BURDENSOME REQUEST.**

(A) Requests calling for all records falling within a category shall be complied with unless compliance with the request would be unduly burdensome for the Village, there is no method of narrowing the request, and the burden on the Village strongly outweighs the public interest in the information. If the Village responds to a categorical request by stating that compliance would unduly burden its operation, it shall do so in a writing signed by the FOIA Officer specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operation of the Village.

(B) After receipt of this response in writing, the person making the request shall have an opportunity to reduce the request to manageable proportions. If the person making the request fails to reduce the request to manageable proportions, the response of the Village shall be treated as a denial of the request information.

**22-2-15 REQUESTS FOR COMMERCIAL PURPOSES.** The Village shall respond to a request for records to be used for a commercial purpose within **twenty-one (21) working days** after receipt. Response shall (1) provide to the requestor an estimate of the time required by the Village to provide the records requested and an

estimate of the fees to be charged which shall be required by Village to be paid in full before copying the requested documents, (2) deny the request pursuant to one or more of the exemptions hereinafter set forth, (3) notify the requestor that the request is unduly burdensome and extend an opportunity to the requestor to reduce the request to manageable proportions, or (4) provide the records requested.

**22-2-16 CERTAIN INFORMATION EXEMPT FROM INSPECTION AND COPYING.** Information exempted by **5 ILCS Sec. 140/7** and **5 ILCS Sec. 140/7.5** of the Freedom of Information Act shall be exempt from inspection and copying. If a record contains both exempt and nonexempt information, the exempt information shall be deleted and the remainder of the record made available for inspection and copying.

**22-2-17 NOTICE OF DENIAL OF REQUEST; APPEALS.**

(A) The FOIA Officer, when denying a request for public record, shall notify the requestor, in writing, of the decision to deny the request, the reasons for the denial, including a detailed factual basis for the application of any exemption claimed, and the names and titles or positions of each person responsible for the denial. Each notice of denial by the FOIA Officer shall also inform the person of the right to review by the Public Access Counselor and provide the address and telephone number for the Public Access Counselor. Each notice of denial shall inform such person of his or her right to judicial review under Section 11 of the Freedom of Information Act (**5 ILCS 140/11**).

(B) When a request for public records is denied on the grounds that the records are exempt under Section 7 of the Freedom of Information Act, the notice of denial shall specify the exemption claimed to authorize denial and specific reasons for the denial, including a detailed, factual basis and a citation to supporting legal authority. Copies of all notices of denial shall be retained by the Village in the office of the FOIA Officer 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.

**22-2-18 DISSEMINATION OF INFORMATION ABOUT PUBLIC BODIES.** The Village shall prominently display at the office of the Village, make available for inspection and copying without charge, and shall send through the mail if requested, each of the following:

(A) A brief description of itself, which will include, but not be limited to 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 all of its separate offices, the approximate number of full and part-time employees, and the identification and membership of any board, commission, committee, or council which operates in an advisory capacity relative to the operation of the Village, or which exercises control over its policies or procedures, or to which the Village is required to report and be

answerable for its operations and a brief description of the methods whereby the public may request information and public records, a directory designating the Freedom of Information Officer or Officers, the address where requests for public records should be directed, and any fees allowable under this Article or Section 6 (**5 ILCS 140/6**) of the Freedom of Information Act.

(B) Should the Village maintain a website, said information shall also be posted upon said website.

**22-2-19** **LIST OF CATEGORIES OF RECORDS.** As to public records prepared or received after the effective date of this Article, the FOIA Officer shall maintain and make available for inspection and copying a reasonably current list of all types or categories of records under its control. The list shall be reasonably detailed in order to aid persons in obtaining access to public records pursuant to this Article. The FOIA Officer shall furnish upon request a description of the manner in which public records stored by means of electronic data processing may be obtained in a form comprehensible to persons lacking knowledge of computer language or printout format.

**(Ord. No. 618; 03-22-10)**



**ARTICLE III – POLICY PROHIBITING SEXUAL HARASSMENT**

**22-3-1 PROHIBITION ON SEXUAL HARASSMENT.** It is unlawful to harass a person because of that person’s sex. The courts have determined that sexual harassment is a form of discrimination under Title VII of the U.S. Civil Rights Act of 1964, as amended in 1991. All persons have a right to work in an environment free from sexual harassment. Sexual harassment is unacceptable misconduct, which affects individuals of all genders and sexual orientations. It is a policy of this Village to prohibit harassment of any person by any municipal official, municipal agent, municipal employee or municipal agency or office on the basis of sex or gender. All municipal officials, municipal agents, municipal employees and municipal agencies or offices are prohibited from sexually harassing any person, regardless of any employment relationship or lack thereof.

**22-3-2 DEFINITION OF SEXUAL HARASSMENT.** This policy adopts the definition of sexual harassment as stated in the Illinois Human Rights Act, which currently defines sexual harassment as:

(A) Any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment,
- (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- (3) Such conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile or offensive working environment.

(B) Conduct which may constitute sexual harassment includes:

- (1) **Verbal.** Sexual innuendoes, suggestive comments, insults, humor, and jokes about sex, anatomy or gender-specific traits, sexual propositions, threats, repeated requests for dates, or statements about other employees, even outside their presence, of a sexual nature.
- (2) **Non-verbal.** Suggestive or insulting sounds (whistling), leering, obscene gestures, sexually suggestive bodily gestures, “catcalls”, “smacking” or “kissing” noises.
- (3) **Visual.** Posters, signs, pin-ups or slogans of a sexual nature, viewing pornographic material or websites.
- (4) **Physical.** Touching, unwelcome hugging or kissing, pinching, brushing the body, any coerced sexual act or actual assault.
- (5) **Textual/Electronic.** “Sexting” (electronically sending messages with sexual content, including pictures and video), the use of sexually explicit language, harassment, cyber stalking or threats via all forms of electronic communication (e-mail, text/picture/video messages, intranet/on-line postings, blogs, instant messages and social network websites like Facebook and Twitter).

(C) The most severe and overt forms of sexual harassment are easier to determine. On the other end of the spectrum, some sexual harassment is more subtle and depends, to some extent, on individual perception and interpretation. The courts will assess sexual harassment by a standard of what would offend a "reasonable person."

**22-3-3 PROCEDURE FOR REPORTING AN ALLEGATION OF SEXUAL HARASSMENT.**

(A) An employee who either observes sexual harassment or believes herself/himself to be the object of sexual harassment should deal with the incident(s) as directly and firmly as possible by clearly communicating his/her position to the offending employee, and his/her immediate supervisor. It is not necessary for sexual harassment to be directed at the person making the report.

(B) Any employee may report conduct which is believed to be sexual harassment, including the following:

- (1) **Electronic/Direct Communication.** If there is sexual harassing behavior in the workplace, the harassed employee should directly and clearly express his/her objection that the conduct is unwelcome and request that the offending behavior stop. The initial message may be verbal. If subsequent messages are needed, they should be put in writing in a note or a memo.
- (2) **Contact with Supervisory Personnel.** At the same time direct communication is undertaken, or in the event the employee feels threatened or intimidated by the situation, the problem must be promptly reported to the immediate supervisor of the person making the report, a department head, a director of human resources, an ethics officer, the village manager or administrator, or the chief executive officer of the Municipality. The employee experiencing what he or she believes to be sexual harassment must not assume that the employer is aware of the conduct. If there are no witnesses and the victim fails to notify a supervisor or other responsible officer, the Municipality will not be presumed to have knowledge of the harassment.
- (3) **Resolution Outside Municipality.** The purpose of this policy is to establish prompt, thorough and effective procedures for responding to every report and incident so that problems can be identified and remedied by the Municipality. However, all municipal employees have the right to contact the Illinois Department of Human Rights (IDHR) or the Equal Employment Opportunity Commission (EEOC) for information regarding filing a formal complaint with those entities. An IDHR complaint must be filed within **three hundred (300) days** of the alleged incident(s) unless it is a continuing offense. A complaint with the EEOC must also be filed within **three hundred (300) days.** **(Ord. No. 18-08; 11-13-18)**

(C) Documentation of any incident may be submitted with any report (what was said or done, the date, the time and the place), including, but not limited to, written records such as letters, notes, memos and telephone messages.

(D) All allegations, including anonymous reports, will be accepted and investigated regardless of how the matter comes to the attention of the Municipality. However, because of the serious implications of sexual harassment charges and the difficulties associated with their investigation and the questions of credibility involved, the claimant's willing cooperation is a vital component of an effective inquiry and an appropriate outcome.

**22-3-4 PROHIBITION ON RETALIATION FOR REPORTING SEXUAL HARASSMENT ALLEGATIONS.**

(A) No municipal official, municipal agency, municipal employee or municipal agency or office shall take any retaliatory action against any municipal employee due to a municipal employee's:

- (1) Disclosure or threatened disclosure of any violation of this policy,
- (2) The provision of information related to or testimony before any public body conducting an investigation, hearing or inquiry into any violation of this policy, or
- (3) Assistance or participation in a proceeding to enforce the provisions of this policy.

(B) For the purposes of this policy, retaliatory action means the reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms or conditions of employment of any municipal employee that is taken in retaliation for a municipal employee's involvement in protected activity pursuant to this policy.

(C) No individual making a report will be retaliated against even if a report made in good faith is not substantiated. In addition, any witness will be protected from retaliation.

(D) Similar to the prohibition against retaliation contained herein, the State Officials and Employees Ethics Act (**5 ILCS 430/15-10**) provides whistleblower protection from retaliatory action such as reprimand, discharge, suspension, demotion, or denial of promotion or transfer that occurs in retaliation for an employee who does any of the following:

- (1) Discloses or threatens to disclose to a supervisor or to a public body an activity, policy, or practice of any officer, member, State agency, or other State employee that the State employee reasonably believes is in violation of a law, rule, or regulation;
- (2) Provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by any officer, member, State agency or other State employee; or
- (3) Assists or participates in a proceeding to enforce the provisions of the State Officials and Employees Ethics Act.

(E) Pursuant to the Whistleblower Act (**740 ILCS 174/15(a)**), an employer may not retaliate against an employee who discloses information in a court, an administrative hearing, or before a legislative commission or committee, or in any other proceeding, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation. In addition, an employer may not retaliate against an employee for disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation. (**740 ILCS 174/15(b)**).

(F) According to the Illinois Human Rights Act (**775 ILCS 5/6-101**), it is a civil rights violation for a person, or for two or more people to conspire, to retaliate against a

person because he/she has opposed that which he/she reasonably and in good faith believes to be sexual harassment in employment, because he/she has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under the Illinois Human Rights Act.

(G) An employee who is suddenly transferred to a lower paying job or passed over for a promotion after filing a complaint with IDHR or EEOC, may file a retaliation charge – either due within **three hundred (300) days** of the alleged retaliation.

**22-3-5 CONSEQUENCES OF A VIOLATION OF THE PROHIBITION ON SEXUAL HARASSMENT.** In addition to any and all other discipline that may be applicable pursuant to municipal policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreement, any person who violates this policy or the Prohibition on Sexual Harassment contained in **5 ILCS 430/5-65**, may be subject to a fine of up to **Five Thousand Dollars (\$5,000.00)** per offense, applicable discipline or discharge by the Municipality and any applicable fines and penalties established pursuant to local ordinance, State law or Federal law. Each violation may constitute a separate offense. Any discipline imposed by the Municipality shall be separate and distinct from any penalty imposed by an ethics commission and any fines or penalties imposed by a court of law or a State or Federal agency.

**22-3-6 CONSEQUENCES FOR KNOWINGLY MAKING A FALSE REPORT.** A false report is a report of sexual harassment made by an accuser using the sexual harassment report to accomplish some end other than stopping sexual harassment or retaliation for reporting sexual harassment. A false report is not a report made in good faith which cannot be proven. Given the seriousness of the consequences for the accused, a false or frivolous report is a severe offense that can itself result in disciplinary action. Any person who intentionally makes a false report alleging a violation of any provision of this policy shall be subject to discipline or discharge pursuant to applicable municipal policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreements.

In addition, any person who intentionally makes a false report alleging a violation of any provision of the State Officials and Employees Ethics Act to an ethics commission, an inspector general, the State Police, a State's Attorney, the Attorney General, or any other law enforcement official is guilty of a Class A misdemeanor. An ethics commission may levy an administrative fine of up to **Five Thousand Dollars (\$5,000.00)** against any person who intentionally makes a false, frivolous or bad faith allegation.

**(Ord. No. 2018-01; 01-08-18)**

**APPENDIX "A"**

**IDENTITY THEFT PREVENTION PROGRAM**

**Municipality:** Village of Lovington

**Village Board Approval:** Effective November 1, 2008

**Program Administrator:** Village Treasurer

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

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

This Identity Theft Prevention Program is hereby adopted by the above-named Illinois municipality pursuant to and in compliance with the Identity Theft Rules of the Federal Trade Commission (FTC), Part 681 of Title 16 of the Code of Federal Regulations (16 CFR Part 681).

**PURPOSE.** The purpose of this Identity Theft Prevention Program (Program) is to protect customers of the Village's utility services from identity theft. The Program is intended to establish reasonable policies and procedures to facilitate the detection, prevention and mitigation of identity theft in connection with the opening of new Covered Accounts and activity on existing Covered Accounts.

**SCOPE.** This Program applies to the creation, modification and access to Identifying Information of a customer of one or more of the utilities operated by the Village (electric, natural gas, water and waste water) by any and all personnel of the Village, including management personnel. This Program does not replace or repeal any previously existing policies or programs addressing some or all of the activities that are the subject of this Program, but rather it is intended to supplement any such existing policies and programs.

**DEFINITIONS.** When used in this Program, the following terms have the meanings set forth opposite their name, unless the context clearly requires that the term be given a different meaning:

**Covered Account:** The term "covered account" means an account that the Village offers or maintains, primarily for personal, family or household purposes, that involves or is designed to permit multiple payments of transactions (16 CFR 681.2(b)(3)(i)). A utility account is a "covered account". The term "covered account" also includes other accounts offered or maintained by the Village for which there is a reasonably foreseeable risk to customers, the Village or its customers from identity theft (16 CFR 681.2(b)(3)(ii)).

Identity Theft: The term "identity theft" means a fraud committed or attempted using the identifying information of another person without authority (16 CFR §681.2(b)(8) and 16 CFR §603.2(a)).

Identifying Information: The term "identifying information" means any name or number that may be used, alone or in conjunction with any other information, to identify a specific person, including any name, social security number, date of birth, official State or government issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number. Additional examples of "identifying information" are set forth in 16 CFR §603.2(a).

Red Flag: The term "Red Flag" means a pattern, practice or specific activity that indicates the possible existence of identity theft.

Certain terms used but not otherwise defined herein shall have the meanings given to them in the FTC's Identity Theft Rules (16 CFR Part 681) or the Fair Credit Reporting Act of 1970 (15 U.S.C. §1681 *et seq.*), as amended by the Fair and Accurate Credit Transactions Act of 2003 into law on December 4, 2003 (Public Law 108-159).

**ADMINISTRATION OF THE PROGRAM.** The initial adoption and approval of the Identity Theft Prevention Program shall be by Ordinance of the Village Board. Thereafter, changes to the Program of a day-to-day operational character and decisions relating to the interpretation and implementation of the Program may be made by the Village Treasurer (Program Administrator). Major changes or shifts of policy positions under the Program shall only be made by the Village Board.

Development, implementation, administration and oversight of the Program will be the responsibility of the Program Administrator. The Program Administrator may, but shall not be required to, appoint a committee to administer the Program. The Program Administrator shall be the head of any such committee. The Program Administrator will report at least annually to the Village Board regarding compliance with this Program.

Issues to be addressed in the annual Identity Theft Prevention Report include:

1. The effectiveness of the policies and procedures in addressing the risk of Identity Theft in connection with the opening of new Covered Accounts and activity with respect to existing Covered Accounts.
2. Service provider arrangements.
3. Significant incidents involving Identity Theft and management's response.
4. Recommendations for material changes to the Program, if needed for improvement.

**IDENTITY THEFT PREVENTION ELEMENTS.**

Identification of Relevant Red Flags. The Municipality has considered the guidelines and the illustrative examples of possible Red Flags from the FTC’s Identity Theft Rules and has reviewed the Village’s past history with instances of identity theft, if any. The Village hereby determines that the following are the relevant Red Flags for purposes of this Program given the relative size of the Village and the limited nature and scope of the services that the Village provides to its citizens:

(A) **Alerts, Notifications or Other Warnings Received From Consumer Reporting Agencies or Service Providers.**

- (1) A fraud or active duty alert is included with a consumer report or an identity verification response from a credit reporting agency.
- (2) A consumer reporting agency provides a notice of credit freeze in response to a request for a consumer report.
- (3) A consumer reporting agency provides a notice of address discrepancy, as defined in §681.1(b) of the FTC’s Identity Theft Rules.
- (4) A consumer report indicates a pattern of activity that is inconsistent with the history and usual pattern of activity of an applicant or customer, such as:
  - (a) A recent and significant increase in the volume of inquiries;
  - (b) An unusual number of recently established credit relationships;
  - (c) A material change in the use of credit, especially with respect to recently established credit relationships; or
  - (d) An account that was closed for cause or identified for abuse of account privileges by a financial institution or creditor.

(B) **The Presentation of Suspicious Documents.**

- (1) Documents provided for identification appear to have been altered or forged.
- (2) The photograph or physical description on the identification is not consistent with the appearance of the applicant or customer presenting the identification.
- (3) Other information on the identification is not consistent with information provided by the person opening a new covered account or customer presenting the identification.
- (4) Other information on the identification is not consistent with readily accessible information that is on file with the Village, such as a signature card or a recent check.

- (5) An application appears to have been altered or forged, or gives the appearance of having been destroyed or reassembled.

(C) **The Presentation of Suspicious Personal Identifying Information, Such as a Suspicious Address Change.**

- (1) Personal identifying information provided is inconsistent when compared against external information sources used by the Village. For example:
  - (a) The address does not match any address in the consumer report or CRA ID Check response; or
  - (b) The Social Security Number (SSN) has not been issued, or is listed on the Social Security Administrator's Death Master File.
- (2) Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer. For example, there is a lack of correlation between the SSN range and date of birth.
- (3) Personal identifying information provided is associated with known fraudulent activity as indicated by internal or third-party sources used by the Village. For example:
  - (a) The address on an application is the same as the address provided on a fraudulent application; or
  - (b) The phone number on an application is the same as the number provided on a fraudulent application.
- (4) Personal identifying information provided is of a type commonly associated with fraudulent activity as indicated by internal or third-party sources used by the Village. For example:
  - (a) The billing address on an application is fictitious, a mail drop, or a prison; or
  - (b) The phone number is invalid, or is associated with a pager or answering service.
- (5) The SSN provided is the same as that submitted by other persons opening an account or other customers.
- (6) The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an unusually large number of other persons opening accounts or other customers.
- (7) The person opening the covered account or the customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.



- (8) Personal identifying information provided is not consistent with personal identifying information that is on file with the Village.
- (9) If the Village uses challenge questions, the person opening the covered account or the customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.

(D) **Unusual Use of, or Suspicious Activity Related to, the Covered Account.**

- (1) Shortly following the notice of a change of address for a covered account, the Village receives a request for the addition of authorized users on the account.
- (2) A new utility account is used in a manner commonly associated with known patterns of fraud patterns. For example: the customer fails to make the first payment or makes an initial payment but no subsequent payments.
- (3) A covered account with a stable history shows irregularities.
- (4) A covered account that has been inactive for a reasonably lengthy period of time is used (taking into consideration the type of account, the expected pattern of usage and other relevant factors.
- (5) Mail sent to the customer is returned repeatedly as undeliverable although usage of utility products or services continues in connection with the customer's covered account.
- (6) The Village is notified that the customer is not receiving paper account statements.
- (7) The Village is notified of unauthorized usage of utility products or services in connection with a customer's covered account.

(E) **Notice of Possible Theft.**

- (1) The Village is notified by a customer, a victim of identity theft, a law enforcement authority, or any other person that it has opened a fraudulent account for a person engaged in identity theft.

Detection of Red Flags. The employees of the Village that interact directly with customers on a day-to-day basis shall have the initial responsibility for monitoring the information and documentation provided by the customer and any third-party service provider in connection with the opening of new accounts and the modification of, or access to, existing accounts and the detection of any Red Flags that might arise. Management shall see to it that all employees who might be called upon to assist a customer with the opening of a new account or with modifying or otherwise accessing an existing account are properly trained such that they have a working familiarity with

the relevant Red Flags identified in this Program so as to be able to recognize any Red Flags that might surface in connection with the transaction. An Employee who is not sufficiently trained to recognize the Red Flags identified in this Program shall not open a new account for any customer, modify any existing account or otherwise provide any customer with access to information in an existing account without the direct supervision and specific approval of a management employee. Management employees shall be properly trained such that they can recognize the relevant Red Flags identified in this Program and exercise sound judgment in connection with the response to any unresolved Red Flags that may present themselves in connection with the opening of a new account or with modifying or accessing of any existing account. Management employees shall be responsible for making the final decision on any such unresolved Red Flags.

The Program Administrator shall establish from time to time a written policy setting forth the manner in which a prospective new customer may apply for service, the information and documentation to be provided by the prospective customer in connection with an application for a new utility service account, the steps to be taken by the employee assisting the customer with the application in verifying the customer's identity and the manner in which the information and documentation provided by the customer and any third-party service provider shall be maintained. Such policy shall be generally consistent with the spirit of the Customer Identification Program rules (31 CFR 103.121) implementing Section 326(a) of the USA PATRIOT Act but need not be as detailed. The Program Administrator shall establish from time to time a written policy setting forth the manner in which customers with existing accounts shall establish their identity before being allowed to make modifications to or otherwise gain access to existing accounts.

Response to Detected Red Flags.

If the responsible employees of the Village as set forth in the previous section are unable, after making a good faith effort, to form a reasonable belief that they know the true identity of a customer attempting to open a new account or modify or otherwise access an existing account based on the information and documentation provided by the customer and any third-party service provider, the Village shall not open the new account or modify or otherwise provide access to the existing account as the case may be. Discrimination in respect to the opening of new accounts or the modification or access to existing accounts will not be tolerated by employees of the Village and shall be grounds for immediate dismissal.

The Program Administrator shall establish from time to time a written policy setting forth the steps to be taken in the event of an unresolved Red Flag situation. Consideration should be given to aggravating factors that may heighten the risk of Identity Theft, such as a data security incident that results in unauthorized access to a

customer's account, or a notice that a customer has provided account information to a fraudulent individual or website. Appropriate responses to prevent or mitigate identity theft when a Red Flag is detected include:

1. Monitoring a Covered Account for evidence of Identity Theft.
2. Contacting the customer.
3. Changing any passwords, security codes, or other security devices that permit access to a Covered Account.
4. Reopening a Covered Account with a new account number.
5. Not opening a new Covered Account.
6. Closing an existing Covered Account.
7. Not attempting to collect on a Covered Account or not selling a Covered Account to a debt collector.
8. Notifying law enforcement.
9. Determining that no response is warranted under the particular circumstances.

**PROGRAM MANAGEMENT AND ACCOUNTABILITY.**

Initial Risk Assessment - Covered Accounts. Utility accounts for personal, family and household purposes are specifically included within the definition of "covered account" in the FTC's Identity Theft Rules. Therefore, the Village determines that with respect to its residential utility accounts it offers and/or maintains covered accounts. The Village also performed an initial risk assessment to determine whether the utility offers or maintains any other accounts for which there are reasonably foreseeable risks to customers or the utility from identity theft. In making this determination the Village considered (1) the methods it uses to open its accounts, (2) the methods it uses to access its accounts, and (3) its previous experience with identity theft, and it concluded that it does not offer or maintain any such other covered accounts.

Program Updates - Risk Assessment. The Program, including relevant Red Flags, is to be updated as often as necessary but at least annually to reflect changes in risks to customers from Identity Theft. Factors to consider in the Program update include:

1. An assessment of the risk factors identified above.
2. Any identified Red Flag weaknesses in associated account systems or procedures.
3. Changes in methods of Identity Theft.
4. Changes in methods to detect, prevent, and mitigate Identity Theft.
5. Changes in business arrangements, including mergers, acquisitions, alliances, joint ventures, and service provider arrangements.

Training and Oversight. All staff and third-party service providers performing any activity in connection with one or more Covered Accounts are to be provided appropriate training and receive effective oversight to ensure that the activity is conducted in accordance with policies and procedures designed to detect, prevent, and mitigate the risk of Identity Theft.

**OTHER LEGAL REQUIREMENTS.** Awareness of the following related legal requirements should be maintained:

1. 31 U.S.C. 5318(g) - Reporting of Suspicious Activities
2. 15 U.S.C. 1681 c-1(h) - Identity Theft Prevention; Fraud Alerts and Active Duty Alerts - Limitations on Use of Information for Credit Extensions
3. 15 U.S.C. 1681 s-2 - Responsibilities of Furnishers of Information to Consumer Reporting Agencies
4. 15 U.S.C. 1681 m - Requirements on Use of Consumer Reports