

**VILLAGE OF LOMBARD**  
**REQUEST FOR BOARD OF TRUSTEES ACTION**  
**For Inclusion on Board Agenda**

DISTRICT

Resolution or Ordinance (Blue) \_\_\_\_\_  
Recommendations of Boards, Commissions & Committees (Green) \_\_\_\_\_  
Other Business (Pink)   X    
Waiver of First Requested \_\_\_\_\_

TO : PRESIDENT AND BOARD OF TRUSTEES

FROM: William T. Lichter, Village Manager

DATE : December 19, 2007  
B of T January 3, 2008

SUBJECT: Village Board Electronic Messaging Policy

SUBMITTED BY: William T. Lichter, Village Manager

BACKGROUND/POLICY IMPLICATIONS:

Discussion of proposed Village Board policy with guidelines for electronic messaging usage.

Fiscal Impact/Funding Source:

Review (as necessary):

Finance Director \_\_\_\_\_  
Village Manager W. T. Lichter  
Date 12/19/07

**NOTE:** All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda distribution.

encl.

Per our discussion relative to the above-captioned matter, enclosed please find a draft Policy for review by the Village Board. As we discussed, the Policy is very general and less detailed. If the Village Board would like something with greater detail, please advise and I will provide you with a draft thereof.

If there are any questions, please feel free to call.

To: Barb Johnson, Deputy Village Clerk, Village of Lombard

From: Tom Bayer, Village Attorney

Date: October 9, 2007

Subject: Village Board Electronic Messaging Policy

Via e-mail only

**MEMORANDUM**

PATRICK A. LUCANSKY  
LANCE C. MALINA  
MICHAEL A. MARAS  
THOMAS M. MELODY  
JANET N. PETSCH  
DONALD E. RENNERT, III  
SCOTT F. UHLER  
GEORGE A. WAGNER  
ALLEN WALL  
DENNIS G. WALSH  
JAMES G. WARGO  
BRUCE A. ZOLNA  
OF COUNSEL  
JAMES A. RHODES  
RICHARD T. WIMMER

SUITE 1660  
20 NORTH WACKER DRIVE  
CHICAGO, ILLINOIS 60606-2903

TELEPHONE (312) 984-6400  
FACSIMILE (312) 984-6444  
FACSIMILE (312) 606-7077

ORLAND PARK OFFICE  
15010 S. RAVINIA AVE., SUITE 17  
ORLAND PARK, IL 60462-3162  
TELEPHONE (708) 349-3888  
FACSIMILE (708) 349-1506

JOSEPH O. AJIBESIN  
RINDA Y. ALLISON  
TERENCE M. BARNICLE  
JAMES P. BARTLEY  
THOMAS P. BAYER  
GERARD E. DEMPSEY  
MICHAEL J. DUGGAN  
JAMES V. FERLO  
JAMES W. FESSLER  
E. KENNETH FRIKER  
BRIAN M. FUNK  
CYNTHIA S. GRANDFIELD  
KATHLEEN T. HENN  
EVERETTE M. HILL, JR.  
MICHAEL T. JURUSIK  
JACOB H. KARACA

KLEIN, THORPE AND JENKINS, LTD.

LAW OFFICES

1. Messages from any one member of the Village Board to the other members of the Village Board where the receiving recipients respond only to the message originator, and do not "reply to all";
2. Messages between members of the Village Board where the discussion involves less than a majority of a quorum of the Village Board (it should be noted that a violation of the Open Meetings Act can occur if a message is passed sequentially and contemporaneously from one member of the Village Board to another in a number equaling a majority of a quorum or more);
3. Messages between the Village Manager and/or Village Staff/employees and a member of the Village Board;

As elected public officials, members of the Village Board shall exercise caution when communicating between and among themselves via electronic messaging services, including but not limited to electronic mail (email), Internet web forums, and Internet chat rooms. Electronic messaging is a form of communication that may conflict with the Open Meetings Act, which prohibits the discussion of public business by a majority of a quorum of the members of a public body outside of a public meeting. Therefore, electronic messaging should only be used in the following circumstances:

**POLICY STATEMENT**

To provide a written procedure that will guide members of the Village Board in complying with the requirements of the Open Meetings Act, Freedom of Information Act and Local Records Act when using electronic messaging.

**RATIONALE**

To establish guidelines for electronic messaging usage in light of the Open Meetings Act, Freedom of Information Act and Local Records Act.

**PURPOSE**

**VILLAGE BOARD  
ELECTRONIC MESSAGING POLICY –  
OPEN MEETINGS ACT, FREEDOM OF INFORMATION ACT  
AND LOCAL RECORDS ACT**

**VILLAGE OF LOMBARD**

**DRAFT**

Under the Local Records Act, any electronic message that is in the possession of a member of the Village Board that includes evidence of the Village's business is to be retained in accordance with the Village's records retention/destruction schedule.

Users should not have an expectation of privacy in any electronic messages that involve Village business. Electronic messages may be subject to inspection or examination when required by and consistent with the law, in response to a subpoena or discovery request in litigation, when there is a substantiated reason to believe that a violation of the law or Village policy has taken place, or when compelling or emergency circumstances require inspection or examination.

Under the Freedom of Information Act (FOIA), electronic messages that have been prepared, or have been or are being used, received, possessed or under the control of any public body are generally deemed to be public records. As such, the messages may, absent an exemption from disclosure, be subject to disclosure in response to a FOIA request. Electronic messages may also be subject to disclosure in the context of litigation or in response to a court order.

4. Responses to questions posed by members of the public, the Village Manager or Village Staff/employees; or
5. The communication of times, dates and places of regular or special Village Board or committee meetings or other housekeeping matters.