

**Recreation and Public Grounds
Commission
Regular Meeting
Agenda**

Litchfield Park Community Room
101 W. Wigwam Blvd.
Litchfield Park, AZ 85340

Thursday, September 10, 2026

7:00 PM

Members of the Recreation and Public Grounds Commission will attend either in person, by telephone, or video conference call.
Physical access to the meeting room will be available 30 minutes prior to the meeting.

I. Call to Order

- A. The agenda and packet are available at: www.litchfieldpark.gov
- B. A video recording of the meeting can be seen [here](#) the next business day.

II. Pledge of Allegiance

III. Call to the Community

This is the time for citizens who would like to address the Commission on any non-agenda item. Action taken as a result of public comment will be limited to asking staff to review the matter, asking that the matter be put on a future agenda, or responding to criticism.

IV. Staff Report

A. Community and Recreation Services Monthly Report

INFORMATION ONLY

Presenter: *Tricia Kramer, Community & Recreation Services Director*

Ms. Kramer may provide an update on the following:

- Recreation Center Facility
- Community Services
- Special Events
- Aquatics
- Preschool
- Sports

B. Public Grounds Monthly Report

INFORMATION ONLY

Presenter: *Kevin Hamilton, Public Grounds Superintendent*

Mr. Hamilton will provide an update on current park maintenance and Public Grounds projects.

C. Opportunities for Improvement

INFORMATION ONLY

Presenter: *Tricia Kramer, Community & Recreation Services Director*

Staff may provide updates on improvements made within the city since the Commission last met. Additional areas of opportunity for improvement may be discussed.

V. Business

A. Approval of Minutes

ACTION/COMMENT

Presenter: *Tricia Kramer, Community & Recreation Services Director*

Discussion and possible action regarding the minutes of the August 13, 2026 regular meeting.

B. Overview of Commission Rules, Procedures and Open Meeting Law

INFORMATION ONLY

Presenter: *Terri Roth, City Clerk*

Overview of Commission Rules, Procedures and Open Meeting Law

C. Yard of the Quarter Selection**ACTION/COMMENT****Presenter:** Krysten Giordano, Commissioner

Discussion and possible action regarding the Yard of the Quarter selection for the third quarter of 2026.

D. Make A Difference Day 2026**ACTION/COMMENT****Presenter:** Tricia Kramer, Community & Recreation Services Director

Discussion and possible action regarding Make A Difference Day 2026.

E. Capital Improvement Projects related to Recreation and Public Grounds**INFORMATION ONLY****Presenter:** Tricia Kramer, Community & Recreation Services Director

Discussion regarding upcoming and possible future capital improvement projects related to Recreation and Public Grounds.

VI. Commissioners Report on Current Events

This is the time Commissioners may present a brief summary on current events. The Commission may not propose, discuss, deliberate or take any legal action on the information presented, pursuant to A.R.S. § 38-431.02.

VII. Topics for Referral to City Council**VIII. Adjournment**

Anthony Taddei, Chair**Affidavit of Posting**

I, Tricia Kramer, do hereby certify that I caused to be posted a true and correct copy of this agenda for the Recreation and Public Grounds Commission meeting of Thursday, September 10, 2026, in the following place in the City of Litchfield Park:

1. City Hall, outside bulletin board
2. City Website

Tricia Kramer, Staff Liason

Persons with special accessibility needs should contact City Hall, (623) 935-5033, at least 48 hours prior to the meeting.



**RECREATION AND PUBLIC
GROUNDS COMMISSION
COMMUNICATION**

**Staff Report Item IV.A
Community and Recreation
Services Monthly Report**

To: Recreation and Public Grounds Commission Members
From: Tricia Kramer, Community and Recreation Services Director
Meeting Date: 9/10/2026

RECOMMENDED MOTION:

N/A

BACKGROUND/DISCUSSION:

See attached report.

STAFF RECOMMENDATION:

N/A

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

1. Community and Recreation Services Monthly Report - September 2026



COMMUNITY AND RECREATION SERVICES MONTHLY REPORT

To: RPG Chairperson and Commissioners
From: Tricia Kramer, Director of Community and Recreation Services
Meeting Date: 09/10/2026

Recreation Center Facility

- The pool is open to the public until Labor Day, 9/7. After that, we close to the public until next summer.
- The Facilities Team has been assisting with some repairs in and around the Rec Center restrooms.

Aquatics

- Odyssey's high school swim team practices are ongoing through early November.
- We continue to receive requests for private pool party reservations. Staff will allow private parties at the pool through 10/31 with paid lifeguard coverage

Community Services

- A flag raising ceremony to honor the Air Force will take place on Friday, 9/18, at 8:15am in front of City Hall.
- The application period for HOLA (Highlighting Our Local Artists) temporary art installations in West Valley cities is open through 10/1.

Preschool

- There are 49 Preschoolers enrolled to date. We continue to accept students through open enrollment.

Special Events

- September events in Litchfield Park:
 - Arizona Swim, Bike, Run Kids Triathlon – Sunday, 9/13
 - Millennium Homecoming Parade – Saturday, 9/19
- Staff have been focused on plans for our fall events:
 - Movies in the Park – 10/10, 10/24 & 11/14
 - Fall Festival of Arts – Saturday & Sunday, 11/7 & 11/8
 - Arts in the Park Season Opener – Sunday, 11/15
 - Touch-A-Truck – Saturday, 11/21

Sports

- The Coach Pitch season begins on 9/8. We currently have 80 kids registered.
- We have 623 kids registered in our Fall Sports Leagues: 278 in basketball, 196 in tee ball, and 149 in flag football.
- September tennis lessons are full. There are 40 kids taking tennis lessons at the Rec Center.



RECREATION AND PUBLIC GROUNDS COMMISSION COMMUNICATION

Staff Report Item IV.B
Public Grounds Monthly Report

To: Recreation and Public Grounds Commission Members
From: Kevin Hamilton, Public Grounds Superintendent
Meeting Date: 9/10/2026

RECOMMENDED MOTION:

N/A

BACKGROUND/DISCUSSION:

MONTHLY PUBLIC GROUNDS REPORT

Reporting period: August 2026, with operational updates through September 4, 2026

Prepared by: Kevin Hamilton, Municipal Grounds Superintendent

Department: City of Litchfield Park Public Grounds

28-DAY PERFORMANCE SNAPSHOT

SeeClickFix: 29 created | 22 closed | 3.8 average days to close | Lake: 12 habitats / 24 fry cradles

Executive Summary

During the reporting period, Public Grounds maintained a strong focus on monsoon recovery, irrigation reliability, park appearance, resident response, and long-term sustainability. Crews completed storm-debris cleanup on major corridors, stabilized damaged trees, resumed mowing and weed control, and performed repairs throughout the irrigation system. The department also advanced landscape-conversion planning, installed natural lake habitat improvements, strengthened operating procedures, and improved tracking and communication through SeeClickFix.

Storm Response, Trees and Palm Maintenance

- Completed storm-debris cleanup along Camelback, Dysart, Indian School, and Litchfield roads, removed additional branches and trash citywide, and prioritized hazards near schools, parks, roadways, residences, and public facilities.
- Completed palm-pruning work near the Recreation Center and Old Litchfield Road; West Coast Arbor submitted a traffic-control plan for median work.

- Scheduled removal of native storm-damaged trees along the Wigwam Channel.

Parks, Grounds and Lake Improvements

- Resumed park mowing, weed trimming, edging, and routine grounds maintenance; completed broadleaf treatments in Areas 11/1 and 11/2, Villa Nueva, Bird Lane, Dysart Road, and part of Indian School Road.
- Installed 12 habitat units supporting 24 fry cradles at Tierra Verde Lake to improve natural nutrient management and reduce reliance on chemical algae treatment.
- Repaired the west-side bench at Tierra Verde Lake and removed the tarp from the playground canopy as part of storm-related safety work.
- Continued Rose Park improvements by repainting the front low wall and beginning work on the interior park wall.

Irrigation and Water Management

- Replaced failed valves, repaired the Hills/Zone 1 mainline, and protected the damaged valve box with a boulder to reduce repeat damage.
- Repaired valves, swing joints, mainlines, sprinklers, bubblers, solenoids, and rotors across Litchfield Square Park, Rose Park, Little Park, Scout Park, Staggs Park, Vista Paseo, Litchfield Road, and multiple neighborhood service areas.
- Installed MP nozzles at Oro Vista and replaced nozzles at 102-W Vista Paseo to reduce overspray; adjusted irrigation timing in Sub 9 north of Campbell.
- Completed the Torno Cl. RP backflow assembly with a new shutoff, concrete slab, and protective cage.
- City median proposals focused on restoring irrigation, correcting chronic system problems, and improving landscape conditions through xeriscape and turf conversion.

Planning, Sustainability and Project Oversight

- Prepared a simplified Level of Service presentation for management, the RPG Committee, and Council.
- Advanced a sustainable landscape palette for storm-damaged medians, including xeriscape plant selections, irrigation modifications, and reflective-heat considerations.
- Refined the seasonal turf strategy to concentrate winter ryegrass in recreational and programmable areas while evaluating nonfunctional turf for conversion.
- Developed City-branded project-notification and potential turf-reduction communication materials.

- Obtained pricing information for potential orange-tree treatment to reduce fruiting and related maintenance demands.

Operations, Service and Professional Development

- Created a daily crew-direction SOP and reinforced organized morning safety talks, clear assignments, and supervisor accountability.
- Developing 30-day citywide grounds-maintenance and street-sweeping cycles with geographic zones, service levels, quality-control periods, and storm-recovery flexibility.
- Created a green-waste disposal system and eliminated 20+ trips to the dump since 8/1.
- Reviewed the SeeClickFix portal: 28-day performance is 29 tickets created, 22 closed, and 3.8 average days to close.
- Attended the Arizona Parks and Recreation Association conference for continuing education and municipal-industry resources.

Upcoming Priorities and Committee Awareness

- Continue storm cleanup, tree stabilization, scheduled native-tree removal, and stump grinding.
- Advance Litchfield Road median palm pruning after traffic-control approval and coordinate remaining palm-pruning priorities.
- Evaluate Estero and median improvement proposals and continue irrigation diagnostics and repairs.
- Prepare for Turtle Park playground delivery at the end of September, with installation to follow.
- Monitor the Tierra Verde Lake habitat program and its effectiveness in reducing algae and reliance on chemical treatments.
- Continue post-rain weed control, close outstanding SeeClickFix requests, and maintain employee heat-safety practices.
- Continue discussion of the sustainable plant palette, nonfunctional turf conversion, and targeted winter ryegrass strategy.

STAFF RECOMMENDATION:

N/A

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

1. Litchfield Park RPG Monthly Report August 2026

MONTHLY PUBLIC GROUNDS REPORT

Recreation, Parks and Grounds Committee

Reporting period: August 2026, with operational updates through September 4, 2026

Prepared by: Kevin Hamilton, Municipal Grounds Superintendent

Department: City of Litchfield Park Public Grounds

28-DAY PERFORMANCE SNAPSHOT

SeeClickFix: 29 created | 22 closed | 3.8 average days to close | Lake: 12 habitats / 24 fry cradles

Executive Summary

During the reporting period, Public Grounds maintained a strong focus on monsoon recovery, irrigation reliability, park appearance, resident response, and long-term sustainability. Crews completed storm-debris cleanup on major corridors, stabilized damaged trees, resumed mowing and weed control, and performed repairs throughout the irrigation system. The department also advanced landscape-conversion planning, installed natural lake habitat improvements, strengthened operating procedures, and improved tracking and communication through SeeClickFix.

Storm Response, Trees and Palm Maintenance

- Completed storm-debris cleanup along Camelback, Dysart, Indian School, and Litchfield roads, removed additional branches and trash citywide, and prioritized hazards near schools, parks, roadways, residences, and public facilities.
- Straightened and stabilized storm-damaged trees at Litchfield Square Park and continued broader tree-recovery work.
- Completed palm-pruning work near the Recreation Center and Old Litchfield Road; West Coast Arbor submitted a traffic-control plan for median work.
- Scheduled removal of native storm-damaged trees along the Wigwam Channel and the next phase of stump grinding.

Parks, Grounds and Lake Improvements

- Resumed park mowing, weed trimming, edging, and routine grounds maintenance; completed broadleaf treatments in Areas 11/1 and 11/2, Villa Nueva, Bird Lane, Dysart Road, and part of Indian School Road.
- Installed 12 habitat units supporting 24 fry cradles at Tierra Verde Lake to improve natural nutrient management and reduce reliance on chemical algae treatment.
- Repaired the west-side bench at Tierra Verde Lake and removed the tarp from the playground canopy as part of storm-related safety work.
- Continued Rose Park improvements by repainting the front low wall and beginning work on the interior park wall.

- Coordinated grounds preparation and operational support for the flag-raising ceremony and library opening.

Irrigation and Water Management

- Replaced failed valves, repaired the Hills/Zone 1 mainline, and protected the damaged valve box with a boulder to reduce repeat damage.
- Repaired valves, swing joints, mainlines, sprinklers, bubblers, solenoids, and rotors across Litchfield Square Park, Rose Park, Little Park, Scout Park, Staggs Park, Vista Paseo, Litchfield Road, and multiple neighborhood service areas.
- Installed MP nozzles at Oro Vista and replaced nozzles at 102-W Vista Paseo to reduce overspray; adjusted irrigation timing in Sub 9 north of Campbell.
- Completed the Torno Cl. RP backflow assembly with a new shutoff, concrete slab, and protective cage, and completed the working backflow list for the annual program.
- Reviewed Estero and City median proposals focused on restoring irrigation, correcting chronic system problems, and improving landscape conditions through xeriscape and turf conversion.

Planning, Sustainability and Project Oversight

- Prepared a simplified Level of Service presentation for management, the RPG Committee, and Council.
- Advanced a sustainable landscape palette for storm-damaged medians, including xeriscape plant selections, irrigation modifications, and reflective-heat considerations.
- Refined the seasonal turf strategy to concentrate winter ryegrass in recreational and programmable areas while evaluating nonfunctional turf for conversion.
- Developed City-branded project-notification and potential turf-reduction communication materials.
- Obtained pricing information for potential orange-tree treatment to reduce fruiting and related maintenance demands.
- Identified incorrect glue and PVC components during the roundabout landscape inspection and directed corrective replacement with proper materials.
- Reviewed GameTime's storm-damage and warranty response to support City follow-up and potential insurance documentation.

Operations, Service and Professional Development

- Created a daily crew-direction SOP and reinforced organized morning safety talks, clear assignments, and supervisor accountability.
- Developed 30-day citywide grounds-maintenance and street-sweeping cycles with geographic zones, service levels, quality-control periods, and storm-recovery flexibility.
- Created a simplified storm-damage response SOP and finalized the on-call policy with a supporting tracking dashboard.
- Implemented the Facilities restroom-cleaning SOP with defined cleaning, inspection, trash, and maintenance schedules.
- Established structured weekly planning and biweekly RPG accomplishment reporting covering parks, streets, irrigation, zones, active projects, citizen concerns, decisions, and risks; supported the monthly RPG Committee meeting.
- Created a green-waste disposal system and eliminated trips to the dump for two consecutive weeks.
- Reviewed the SeeClickFix portal for open requests, assignments, response status, and citizen follow-up; current 28-day performance is 29 tickets created, 22 closed, and 3.8 average days to close.
- Responded to resident concerns about palm maintenance, City-owned trees, turf conditions, irrigation, and seasonal Bermuda recovery.
- Met with Peter Mahoney regarding departmental priorities and attended the Arizona Parks and Recreation Association conference for continuing education and municipal-industry resources.

Upcoming Priorities and Committee Awareness

- Continue storm cleanup, tree stabilization, scheduled native-tree removal, and stump grinding.
- Advance Litchfield Road median palm pruning after traffic-control approval and coordinate remaining palm-pruning priorities.
- Evaluate Estero and median improvement proposals and continue irrigation diagnostics and repairs.
- Prepare for Turtle Park playground delivery at the end of September, with installation to follow.
- Monitor the Tierra Verde Lake habitat program and its effectiveness in reducing algae and reliance on chemical treatments.
- Continue post-rain weed control, close outstanding SeeClickFix requests, and maintain employee heat-safety practices.
- Continue discussion of the sustainable plant palette, nonfunctional turf conversion, and targeted winter ryegrass strategy.



**RECREATION AND PUBLIC
GROUNDS COMMISSION
COMMUNICATION**

**Staff Report Item IV.C
Opportunities for Improvement**

To: Recreation and Public Grounds Commission Members
From: Tricia Kramer, Community and Recreation Services Director
Meeting Date: 9/10/2026

RECOMMENDED MOTION:
N/A

BACKGROUND/DISCUSSION:

Staff may provide updates on items previously submitted by Commissioners regarding the maintenance and upkeep of city parks and public grounds. Commissioners may also notify staff about additional areas of opportunity for improvement. No action will be taken during the meeting on any items presented as part of this agenda item.

STAFF RECOMMENDATION:
N/A

FINANCIAL IMPACT:
None

ATTACHMENTS:



**RECREATION AND PUBLIC
GROUNDS COMMISSION
COMMUNICATION**

**Business Item V.A
Approval of Minutes**

To: Recreation and Public Grounds Commission Members
From: Tricia Kramer, Community and Recreation Services Director
Meeting Date: 9/10/2026

RECOMMENDED MOTION:
MOVE TO APPROVE THE AUGUST 13, 2026, MEETING MINUTES

BACKGROUND/DISCUSSION:
None

STAFF RECOMMENDATION:
Staff recommends approval.

FINANCIAL IMPACT:
None

ATTACHMENTS:
1. 081326 REG Minutes - Draft

Thursday, August 13, 2026

Regular Meeting

I. Call to Order

The meeting was held in the Library Community Room and called to order by Chairperson Taddei at 7:02 p.m. A video recording of the meeting can be viewed [here](#).

Present: Chairperson Anthony Taddei, Vice Chairperson Andrea Phillips, Commissioner Brian Culbreth, Commissioner Brian Faith, Commissioner Christoph Gerz, Commissioner Krysten Giordano, Commissioner Adam Schwartz

Absent: Council Liaison Justin James

Staff: Tricia Kramer, Community and Recreation Services Director; Kevin Hamilton, Public Grounds Superintendent, Pat McCoy, Sports Coordinator, Kris Scott, Facilities Manager

II. Pledge of Allegiance

The Pledge of Allegiance was led by Chairperson Taddei.

III. Call to the Community

There was one request to speak. Resident Beverly Gary requested that speed bumps be installed on Wigwam Blvd. between Indian School Rd and Litchfield Rd.

IV. Staff Report

A. Community and Recreation Services Monthly Report

Ms. Kramer reviewed her written report. She informed the Commissioners that August Water Aerobics registrations increased from 6 to 10 since her written report was provided. Pat McCoy added that tee ball continues to grow and more teams were added this year due to demand.

B. Public Grounds Monthly Report

Public Grounds Superintendent Kevin Hamilton reviewed his written report. He touched on a few key accomplishments including 100% turf aeration and fertilization, removal of hazardous trees on the Hilltop, and continued citywide palm pruning. Mr. Hamilton then explained the 5-week Bermuda grass transition plan and process, as well as the upcoming transition to winter grass. The Turtle Park

playground will start installation on September 21st. A standard operating procedure for mowing has been created, and staff are working with ASU on a GIS asset mapping system. Finally, Mr. Hamilton shared that the City is still trying to process the magnitude of the recent storm damage and he will follow up at a later date once that information is fully realized.

C. Introduction of Facilities Manager

Facilities Manager Kris Scott introduced himself to the Commissioners and explained his new role with the City. He has been assessing all the City facilities. Mr. Scott clarified that his focus is on City buildings and park structures and the plumbing, electrical and HVAC for them. Examples of this include park restrooms, ramada lighting, and water fountains.

D. Opportunities for Improvement

Ms. Kramer asked the Commissioners if there were any new opportunities they wanted to address. She said the Engage LP trend has been notifications from citizens about irrigation leaks. Mr. Hamilton agreed and added that downed trees from recent storms have been reported through the app, as well. This has been very helpful to staff.

Commissioner Faith said that an opportunity he would like addressed is the section of rolling hills along Villa Nueva. He would like the City to either officially make it available for public use or tear out the grass and put rocks in if it is not going to be used as a park.

Chairman Taddei said that a tree on the north side of La Loma is about to die and probably needs to be removed. He also asked whether there are islands around the city that have already been marked for xeriscape. Mr. Hamilton said those medians are actually the areas he was talking about with his current Bermuda plan. The xeriscape plan is still being worked out and will include public and RPG feedback in the near future.

V. Business

A. Approval of Minutes

APPROVED

MOVE TO APPROVE THE JUNE 11, 2026 MINUTES

MOVER Commissioner Schwartz, **SECONDER** Commissioner Gerz

AYE: Chairperson Taddei, Vice Chairperson Phillips, Commissioner Culbreth, Commissioner Faith, Commissioner Gerz, Commissioner Giordano, Commissioner Schwartz

7 - 0 Passed

B. Public Access to Litchfield Elementary School Playground, Courts and Fields**DISCUSSED**

Ms. Kramer shared that Litchfield Elementary School District has confirmed that Litchfield Elementary School's playground, courts and fields will remain open for public use after school and on the weekends. She encouraged the Commissioners to spot check this at their convenience to make sure that this is happening. Staff will do the same.

C. Scout Park Tee Ball Field**DISCUSSED**

Sports Coordinator Pat McCoy provided an update on his vendor meetings about the possible placement of a dirt tee ball field in Scout Park. The vendors recommended leaving the field where it is currently located and adding the dirt there. Discussion was held. There are two main considerations before deciding specifically on the dirt tee ball field. One is infrastructure relocation for irrigation and power in Scout Park and the other is the future addition of the new Scout Lodge in Scout Park.

The Commissioners do not want to do things piecemeal. They would rather plan for all of these items as a whole, have a wise use of taxpayer funds, and get an understanding of what the long-term plan is for Scout Park. For now, Youth Sports can continue using the tee ball field as is without the dirt infield. Ms. Kramer proposed having staff from impacted departments get together and internally discuss how to make best use of Scout Park. The Commissioners are looking for a five-year or ten-year plan for use.

D. Field Lighting for Sports**DISCUSSED**

Commissioner Gerz led a discussion about field lights in city parks. He said the closest general-purpose fields that are lit are located at Friendship Park in Avondale, which are always busy and well-used. He shared a study from the Aspen Institute. The study shows that the percentage of children participating in a sport regularly has an overall decrease. He wants us to be a part of making that go the other direction. Discussion was held. The cost to install lights, light pollution, our parks' proximity to houses, and the increased operating hours and staff coverage that would be needed, seem to be the biggest limiting factors. The Commissioners agreed to gather information from their neighbors and place this item on a future agenda after they have gathered the information. Staff will do the same.

VI. Commissioners Report on Current Events

Commissioner Giordano said the 4th of July celebration was fantastic. She heard a lot of good buzz about that. She still wants to see crosswalks on Wigwam and Desert and speed bumps on Old Litchfield, Villa Nueva, and Desert.

Commissioner Faith would love to see painting in the streets to slow down the traffic rather than speed bumps. He also appreciates Kevin being here and breathing new life into the Commission.

Commissioner Schwartz had nothing to report.

Commissioner Gerz echoed Commissioner Faith and appreciates all that the staff does.

Commissioner Culbreth was also at Sparkle in the Square. It was a good event. The fireworks were excellent. He urged everyone to continue to use Engage LP.

Vice Chair Phillips was so impressed at how quickly the City was taking care of things after the storms. She is also impressed with all of the changes and the addition of Yosha, Kevin and Kris.

Chairperson Taddei was impressed with all of the planning that went into the new library. He attended the opening ceremony and toured the Hilltop School too because he has a child attending the school.

VII. Topics for Referral to City Council

None

VIII. Adjournment

The meeting was adjourned by Chairperson Taddei at 9:54 p.m.

APPROVED:

Anthony Taddei, Chair

CERTIFICATION

I, Tricia Kramer, do hereby certify that the foregoing minutes are a true and correct copy of the minutes of the meeting of the Recreation and Public Grounds Commission of the City of Litchfield Park held on Thursday, August 13, 2026. I further certify that the meeting was duly called and held and that a quorum was present.

Tricia Kramer, Staff Liaison



**RECREATION AND PUBLIC
GROUNDS COMMISSION
COMMUNICATION**

**Business Item V.B
Overview of Commission Rules,
Procedures and Open Meeting
Law**

To: Recreation and Public Grounds Commission Members
From: Terri Roth, City Clerk
Meeting Date: 9/10/2026

RECOMMENDED MOTION:
PRESENTATION ONLY.

BACKGROUND/DISCUSSION:

This is an overview of the rules, procedures and open meeting law for the Commission and its Members.

STAFF RECOMMENDATION:

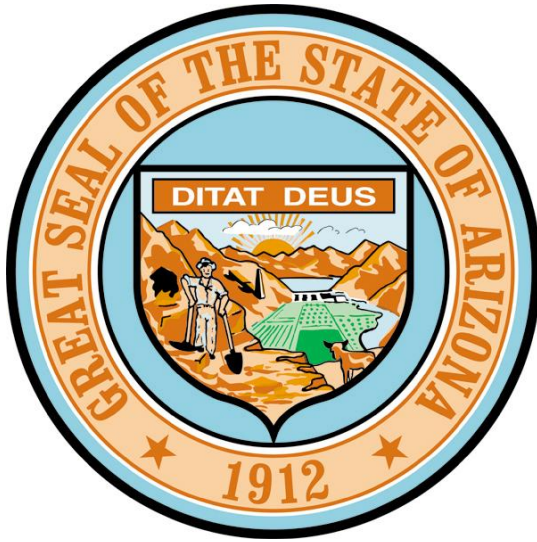
Presentation only.

FINANCIAL IMPACT:

None

ATTACHMENTS:

1. Open Meeting Law Booklet 2025
2. City Council Rules and Procedures Amended 02.05.25



ARIZONA OPEN MEETING LAW

**Compiled by:
The Arizona Ombudsman-Citizens' Aide**

2025 June Edition



The Arizona Ombudsman-Citizens' Aide is a legislative agency. The office is independent of both the Governor and Attorney General and answers to the Legislature.

The Arizona Ombudsman-Citizens' Aide is empowered to take and investigate complaints about administrative acts of state agencies. For complaints concerning the public records and open meeting law, the office is also empowered to investigate local government, such as counties, municipalities, special taxing districts, and school districts.

The Arizona Ombudsman-Citizens' Aide is also tasked with educating public officials and the public as to the public records and open meeting law. The office produces comprehensive public access educational reference booklets. The office also welcomes inquiries from and provides guidance to public officials and the public, which, upon request, are kept confidential. The office also offers in-person, live virtual, and video public records law and open meeting law training to Arizona government entities and officials, as well as other interested groups and organizations.

If you wish to file a complaint with the Arizona Ombudsman-Citizens' Aide, request training, request additional booklets, or discuss a public records or open meeting law matter, you can

- Call 602-277-7292; Fax 602-277-7312
- Visit us online at <https://www.azoca.gov/>
- Email Ombuds@azoca.gov
- Visit 2020 N. Central Avenue, Suite 570, Phoenix, AZ 85004. Please schedule an appointment.

Table of Contents

Part I – Arizona Revised Statutes.....	1
Part II – Attorney General Handbook – Open Meeting Law	17
Part III – Frequently Asked Questions	55
Part IV – Legal Authority	62

Part I – Arizona Revised Statutes

§ 32-4801.	Public meetings; digital recordings; posting; definition...	2
§ 38-431.	Definitions	3
§ 38-431.01.	Meetings shall be open to the public	4
§ 38-431.02.	Notice of meetings.....	6
§ 38-431.03.	Executive sessions	9
§ 38-431.04.	Writ of mandamus.....	11
§ 38-431.05.	Meeting held in violation of article; business transacted null and void; ratification	11
§ 38-431.06.	Investigations; written investigative demands	12
§ 38-431.07.	Violations; enforcement; removal from office; in camera review.....	13
§ 38-431.08.	Exceptions; limitation	14
§ 38-431.09.	Declaration of public policy	15

Title 32. Licensing Authorities

Article 1. Public Meetings

§ 32-4801. Public meetings; digital recordings; posting; definition

- A. Each licensing authority shall:
 - 1. In addition to the requirements prescribed in title 38, chapter 3, article 3.1, provide for a digital recording of each licensing authority meeting, except for executive sessions.
 - 2. Post on its website the digital recording of the meeting not later than five days after the meeting and retain the recording on its website for at least three years.
 - 3. Except as prescribed by sections 32-3214 and 41-1092.09, post on its website all final decisions, orders and actions the licensing authority takes not later than five days after the meeting and retain this information on its website for at least three years but not more than five years.
- B. For the purposes of this section, "licensing authority" has the same meaning prescribed in section 32-4701.¹

¹ A.R.S. § 32-4701(M) defines "licensing authority" as "any agency, department, board or commission of this state that issues a license pursuant to this title, except chapter 40 of this title, for the purposes of operating a business in this state to an individual who provides a service to any person."

Title 38. Public Officers and Employees
Chapter 3. Conduct of Office
Article 3.1. Public Meetings and Proceedings

§ 38-431. Definitions

In this article, unless the context otherwise requires:

1. “Advisory committee” or “subcommittee” means any entity, however designated, that is officially established, on motion and order of a public body or by the presiding officer of the public body, and whose members have been appointed for the specific purpose of making a recommendation concerning a decision to be made or considered or a course of conduct to be taken or considered by the public body.
2. “Executive session” means a gathering of a quorum of members of a public body from which the public is excluded for one or more of the reasons prescribed in section 38-431.03. In addition to the members of the public body, officers, appointees and employees as provided in section 38-431.03 and the auditor general as provided in section 41-1279.04, only individuals whose presence is reasonably necessary in order for the public body to carry out its executive session responsibilities may attend the executive session.
3. “Legal action” means a collective decision, commitment or promise made by a public body pursuant to the constitution, the public body’s charter, bylaws or specified scope of appointment and the laws of this state.
4. “Meeting”:
 - (a) Means the gathering, in person or through technological devices, of a quorum of the members of a public body at which they discuss, propose or take legal action, including any deliberations by a quorum with respect to such that action.
 - (b) Includes:
 - (i) A one-way electronic communication by one member of a public body that is sent to a quorum of the members of a public body and that proposes legal action.
 - (ii) An exchange of electronic communications among a quorum of the members of a public body that involves a discussion, deliberation or the taking of legal action by the public body concerning a matter likely to come before the public body for action.
5. “Political subdivision” means all political subdivisions of this state, including without limitation all counties, cities and towns, school districts and special districts.
6. “Public body” means the legislature, all boards and commissions of this state or political subdivisions, all multimember governing bodies of departments, agencies, institutions and instrumentalities of this state or political subdivisions, including without limitation all corporations and

other instrumentalities whose boards of directors are appointed or elected by this state or political subdivision. Public body includes all quasi-judicial bodies and all standing, special or advisory committees or subcommittees of, or appointed by, the public body. Public body includes all commissions and other public entities established by the Arizona constitution or by way of ballot initiative, including the independent redistricting commission, and this article applies except and only to the extent that specific constitutional provisions supersede this article.

7. “Quasi-judicial body” means a public body, other than a court of law, possessing the power to hold hearings on disputed matters between a private person and a public agency and to make decisions in the general manner of a court regarding such disputed claims.

§ 38-431.01. Meetings shall be open to the public

- A. All meetings of any public body shall be public meetings and all persons so desiring shall be allowed to attend and listen to the deliberations and proceedings. All legal action of public bodies shall occur during a public meeting.
- B. Schools, school boards, executive boards and municipalities shall provide for an amount of seating sufficient to accommodate the reasonably anticipated attendance of all persons desiring to attend the deliberations and proceedings, when feasible. This section does not require a public body to relocate a meeting outside of the largest regular meeting room.
- C. All public bodies shall provide for the taking of written minutes or a recording of all their meetings, including executive sessions. For meetings other than executive sessions, the minutes or recording shall include:
1. The date, time and place of the meeting.
 2. The members of the public body recorded as either present or absent.
 3. A general description of the matters considered.
 4. An accurate description of all legal actions proposed, discussed or taken, including a record of how each member voted. The minutes shall also include the names of the members who propose each motion and the names of the persons, as given, who make statements or present material to the public body and a reference to the legal action about which they made statements or presented material.
- D. Minutes of executive sessions shall include items set forth in subsection C, paragraphs 1, 2 and 3 of this section, an accurate description of all instructions given pursuant to section 38-431.03, subsection A, paragraphs 4, 5 and 7 and such other matters as may be deemed appropriate by the public body.

- E. The minutes or a recording of a meeting shall be available for public inspection three working days after the meeting except as otherwise specifically provided by this article.
- F. A public body of a city or town with a population of more than two thousand five hundred persons shall:
 - 1. Within three working days after a meeting, except for subcommittees and advisory committees, post on its website, if applicable, either:
 - (a) A statement describing the legal actions taken by the public body of the city or town during the meeting.
 - (b) Any recording of the meeting.
 - 2. Within two working days following approval of the minutes, post approved minutes of city or town council meetings on its website, if applicable, except as otherwise specifically provided by this article.
 - 3. Within ten working days after a subcommittee or advisory committee meeting, post on its website, if applicable, either:
 - (a) A statement describing legal action, if any.
 - (b) A recording of the meeting.
- G. All or any part of a public meeting of a public body may be recorded by any person in attendance by means of a tape recorder or camera or any other means of sonic reproduction, provided that there is no active interference with the conduct of the meeting.
- H. The secretary of state for state public bodies, the city or town clerk for municipal public bodies and the county clerk for all other local public bodies shall conspicuously post open meeting law materials prepared and approved by the attorney general on their website. A person elected or appointed to a public body shall review the open meeting law materials at least one day before the day that person takes office.
- I. A public body may make an open call to the public during a public meeting, subject to reasonable time, place and manner restrictions, to allow individuals to address the public body on any issue within the jurisdiction of the public body. At the conclusion of an open call to the public, individual members of the public body may respond to criticism made by those who have addressed the public body, may ask staff to review a matter or may ask that a matter be put on a future agenda. However, members of the public body shall not discuss or take legal action on matters raised during an open call to the public unless the matters are properly noticed for discussion and legal action.

- J. A member of a public body shall not knowingly direct any staff member to communicate in violation of this article.
- K. Any posting required by subsection F of this section must remain on the applicable website for at least one year after the date of the posting.

§ 38-431.02. Notice of meetings

- A. Public notice of all meetings of public bodies shall be given as follows:
 - 1. The public bodies of this state, including governing bodies of charter schools, shall:
 - (a) Conspicuously post a statement on their website stating where all public notices of their meetings will be posted, including the physical and electronic locations, and shall give additional public notice as is reasonable and practicable as to all meetings.
 - (b) Post all public meeting notices on their website and give additional public notice as is reasonable and practicable as to all meetings. A technological problem or failure that either prevents posting public notices on a website or that temporarily or permanently prevents using all or part of the website does not preclude holding the meeting for which the notice was posted if the public body complies with all other public notice requirements required by this section.
 - 2. The public bodies of the counties and school districts shall:
 - (a) Conspicuously post a statement on their website stating where all public notices of their meetings will be posted, including the physical and electronic locations, and shall give additional public notice as is reasonable and practicable as to all meetings.
 - (b) Post all public meeting notices on their website and give additional public notice as is reasonable and practicable as to all meetings. A technological problem or failure that either prevents posting public notices on a website or that temporarily or permanently prevents using all or part of the website does not preclude holding the meeting for which the notice was posted if the public body complies with all other public notice requirements required by this section.
 - 3. Special districts that are formed pursuant to title 48:
 - (a) May conspicuously post a statement on their website stating where all public notices of their meetings will be posted, including the physical and electronic locations, and shall give additional public notice as is reasonable and practicable as to all meetings.
 - (b) May post all public meeting notices on their website and shall give additional public notice as is reasonable and practicable as

to all meetings. A technological problem or failure that either prevents posting public notices on a website or that temporarily or permanently prevents using all or part of the website does not preclude holding the meeting for which the notice was posted if the public body complies with all other public notice requirements required by this section.

- (c) If a statement or notice is not posted pursuant to subdivision (a) or (b) of this paragraph, shall file a statement with the clerk of the board of supervisors stating where all public notices of their meetings will be posted and shall give additional public notice as is reasonable and practicable as to all meetings.
- 4. The public bodies of the cities and towns shall:
 - (a) Conspicuously post a statement on their website or on a website of an association of cities and towns stating where all public notices of their meetings will be posted, including the physical and electronic locations, and shall give additional public notice as is reasonable and practicable as to all meetings.
 - (b) Post all public meeting notices on their website or on a website of an association of cities and towns and give additional public notice as is reasonable and practicable as to all meetings. A technological problem or failure that either prevents posting public notices on a website or that temporarily or permanently prevents using all or part of the website does not preclude holding the meeting for which the notice was posted if the public body complies with all other public notice requirements required by this section.
- B. If an executive session is scheduled, a notice of the executive session shall state the provision of law authorizing the executive session, and the notice shall be provided to the:
 - 1. Members of the public body.
 - 2. General public.
- C. Except as provided in subsections D and E of this section, meetings shall not be held without at least twenty-four hours' notice to the members of the public body and to the general public. The twenty-four-hour period includes Saturdays if the public has access to the physical posted location in addition to any website posting, but excludes Sundays and other holidays prescribed in § 1-301.
- D. In case of an actual emergency, a meeting, including an executive session, may be held on such notice as is appropriate to the circumstances. If this subsection is used for conduct of an emergency session or the consideration of an emergency measure at a previously scheduled meeting the public body

must post a public notice within twenty-four hours declaring that an emergency session has been held and setting forth the information required in subsections H and I of this section.

- E. A meeting may be recessed and resumed with less than twenty-four hours' notice if public notice of the initial session of the meeting is given as required in subsection A of this section, and if, before recessing, notice is publicly given as to the time and place of the resumption of the meeting or the method by which notice shall be publicly given.
- F. A public body that intends to meet for a specified calendar period, on a regular day, date or event during the calendar period, and at a regular place and time, may post public notice of the meetings at the beginning of the period. The notice shall specify the period for which notice is applicable.
- G. Notice required under this section shall include an agenda of the matters to be discussed or decided at the meeting or information on how the public may obtain a copy of such an agenda. The agenda must be available to the public at least twenty-four hours before the meeting, except in the case of an actual emergency under subsection D of this section. The twenty-four-hour period includes Saturdays if the public has access to the physical posted location in addition to any website posting, but excludes Sundays and other holidays prescribed in § 1-301.
- H. Agendas required under this section shall list the specific matters to be discussed, considered or decided at the meeting. Except for a meeting through technological devices, the agenda shall also include notice of the time that the public will have physical access to the meeting place. The public body may discuss, consider or make decisions only on matters listed on the agenda and other matters related thereto.
- I. Notwithstanding the other provisions of this section, notice of executive sessions shall be required to include only a general description of the matters to be considered. The agenda shall provide more than just a recital of the statutory provisions authorizing the executive session, but need not contain information that would defeat the purpose of the executive session, compromise the legitimate privacy interests of a public officer, appointee or employee or compromise the attorney-client privilege.
- J. Notwithstanding subsections H and I of this section, in the case of an actual emergency a matter may be discussed and considered and, at public meetings, decided, if the matter was not listed on the agenda and a statement setting forth the reasons necessitating the discussion, consideration or decision is placed in the minutes of the meeting and is

publicly announced at the public meeting. In the case of an executive session, the reason for consideration of the emergency measure shall be announced publicly immediately before the executive session.

- K. Notwithstanding subsection H of this section, the chief administrator, presiding officer or a member of a public body may present a brief summary of current events without listing in the agenda the specific matters to be summarized, if:
1. The summary is listed on the agenda.
 2. The public body does not propose, discuss, deliberate or take legal action at that meeting on any matter in the summary unless the specific matter is properly noticed for legal action.

§ 38-431.03. Executive sessions

- A. On a public majority vote of the members constituting a quorum, a public body may hold an executive session but only for the following purposes:
1. Discussion or consideration of employment, assignment, appointment, pro-motion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public body, except that, with the exception of salary discussions, an officer, appointee or employee may demand that the discussion or consideration occur at a public meeting. The public body shall provide the officer, appointee or employee with written notice of the executive session as is appropriate but not less than twenty-four hours for the officer, appointee or employee to determine whether the discussion or consideration should occur at a public meeting.
 2. Discussion or consideration of records exempt by law from public inspection, including the receipt and discussion of information or testimony that is specifically required to be maintained as confidential by state or federal law.
 3. Discussion or consultation for legal advice with the attorney or attorneys of the public body.
 4. Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation.
 5. Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations with employee organizations regarding the salaries, salary schedules or compensation paid in the form of fringe benefits of employees of the public body.

6. Discussion, consultation or consideration for international and interstate negotiations or for negotiations by a city or town, or its designated representatives, with members of a tribal council, or its designated representatives, of an Indian reservation located within or adjacent to the city or town.
 7. Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property.
 8. Discussion or consideration of matters relating to school safety operations or school safety plans or programs.
 9. Discussions or consultations with designated representatives of the public body in order to discuss security plans, procedures, assessments, measures or systems relating to, or having an impact on, the security or safety of buildings, facilities, operations, critical infrastructure information and information technology maintained by the public body. Records, documentation, notes, or other materials made by, or provided to, the representatives pursuant to this paragraph are confidential and exempt from public disclosure under this chapter and title 39, chapter 1.
- B. Minutes of and discussions made at executive sessions shall be kept confidential except from:
1. Members of the public body that met in executive session.
 2. Officers, appointees or employees who were the subject of discussion or consideration pursuant to subsection A, paragraph 1 of this section.
 3. The auditor general on a request made in connection with an audit authorized as provided by law.
 4. A county attorney or the attorney general when investigating alleged violations of this article.
- C. The public body shall instruct persons who are present at the executive session regarding the confidentiality requirements of this article.
- D. Legal action involving a final vote or decision shall not be taken at an executive session, except that the public body may instruct its attorneys or representatives as provided in subsection A, paragraphs 4, 5 and 7 of this section. A public vote shall be taken before any legal action binds the public body.
- E. Except as provided in section 38-431.02, subsections I and J, a public body shall not discuss any matter in an executive session that is not described in the notice of the executive session.

- F. Disclosure of executive session information pursuant to this section or section 38-431.06 does not constitute a waiver of any privilege, including the attorney-client privilege. Any person receiving executive session information pursuant to this section or section 38-431.06 shall not disclose that information except to the attorney general or county attorney, by agreement with the public body or to a court in camera for purposes of enforcing this article. Any court that reviews executive session information shall take appropriate action to protect privileged information.
- G. For the purposes of this section:
1. “Critical infrastructure” has the same meaning prescribed in section 41-1801.
 2. “Information technology” has the same meaning prescribed in section 18-101.

§ 38-431.04. Writ of mandamus

Where the provisions of this article are not complied with, a court of competent jurisdiction may issue a writ of mandamus requiring that a meeting be open to the public.

§ 38-431.05. Meeting held in violation of article; business transacted null and void; ratification

- A. All legal action transacted by any public body during a meeting held in violation of any provision of this article is null and void except as provided in subsection B.
- B. A public body may ratify legal action taken in violation of this article in accordance with the following requirements:
1. Ratification shall take place at a public meeting within thirty days after discovery of the violation or after such discovery should have been made by the exercise of reasonable diligence.
 2. The notice for the meeting shall include a description of the action to be ratified, a clear statement that the public body proposes to ratify a prior action and information on how the public may obtain a detailed written description of the action to be ratified.
 3. The public body shall make available to the public a detailed written description of the action to be ratified and all deliberations, consultations and decisions by members of the public body that preceded and related to such action. The written description shall also be included as part of the minutes of the meeting at which ratification is taken.

4. The public body shall make available to the public the notice and detailed written description required by this section at least seventy-two hours in advance of the public meeting at which the ratification is taken.

§ 38-431.06. Investigations; written investigative demands

- A. On receipt of a written complaint signed by a complainant alleging a violation of this article or on their own initiative, the attorney general or the county attorney for the county in which the alleged violation occurred may begin an investigation.
- B. In addition to other powers conferred by this article, in order to carry out the duties prescribed in this article, the attorney general or the county attorney for the county in which the alleged violation occurred, or their designees, may:
 1. Issue written investigative demands to any person.
 2. Administer an oath or affirmation to any person for testimony.
 3. Examine under oath any person in connection with the investigation of the alleged violation of this article.
 4. Examine by means of inspecting, studying or copying any account, book, computer, document, minutes, paper, recording or record.
 5. Require any person to file on prescribed forms a statement or report in writing and under oath of all the facts and circumstances requested by the attorney general or county attorney.
- C. The written investigative demand shall:
 1. Be served on the person in the manner required for service of process in this state or by certified mail, return receipt requested.
 2. Describe the class or classes of documents or objects with sufficient definiteness to permit them to be fairly identified.
 3. Prescribe a reasonable time at which the person shall appear to testify and within which the document or object shall be produced and advise the person that objections to or reasons for not complying with the demand may be filed with the attorney general or county attorney on or before that time.
 4. Specify a place for the taking of testimony or for production of a document or object and designate a person who shall be the custodian of the document or object.
- D. If a person objects to or otherwise fails to comply with the written investigation demand served on the person pursuant to subsection C, the attorney general or county attorney may file an action in the superior court for an order to enforce the demand. Venue for the action to enforce the

demand shall be in Maricopa county or in the county in which the alleged violation occurred. Notice of hearing the action to enforce the demand and a copy of the action shall be served on the person in the same manner as that prescribed in the Arizona rules of civil procedure. If a court finds that the demand is proper, including that the compliance will not violate a privilege and that there is not a conflict of interest on the part of the attorney general or county attorney, that there is reasonable cause to believe there may have been a violation of this article and that the information sought or document or object demanded is relevant to the violation, the court shall order the person to comply with the demand, subject to modifications the court may prescribe. If the person fails to comply with the court's order, the court may issue any of the following orders until the person complies with the order:

1. Adjudging the person in contempt of court.
2. Granting injunctive relief against the person to whom the demand is issued to restrain the conduct that is the subject of the investigation.
3. Granting other relief the court deems proper.

§ 38-431.07. Violations; enforcement; removal from office; in camera review

- A. Any person affected by an alleged violation of this article, the attorney general or the county attorney for the county in which an alleged violation of this article occurred may commence a suit in the superior court in the county in which the public body ordinarily meets, for the purpose of requiring compliance with, or the prevention of violations of, this article, by the public body as a whole, or to determine the applicability of this article to matters or legal actions of the public body. The attorney general may also commence a suit in the superior court in the county in which the public body ordinarily meets against an individual member of a public body for a knowing violation of this article, and in such a suit the court may impose a civil penalty against each person who knowingly violates this article or who knowingly aids, agrees to aid or attempts to aid in violating this article and order equitable relief as the court deems appropriate in the circumstances. The court may impose a civil penalty not to exceed five hundred dollars for the second offense and not to exceed two thousand five hundred dollars for the third and subsequent offenses. If the court imposes a civil penalty against an individual member of the public body who knowingly violates this article, the public body may not pay the civil penalty on behalf of, or otherwise reimburse, the individual against whom the civil penalty has been imposed. If the court finds that a person who might otherwise be liable under this subsection objected to the action of the public body and the objection is noted on a public record, the court may choose not to impose a civil penalty on that person. The civil penalties awarded pursuant to this section shall be deposited into the general fund of the public body

concerned. The court may also order payment to a successful plaintiff in a suit brought under this section of the plaintiff's reasonable attorney fees, by the defendant state, the political subdivision of the state or the incorporated city or town of which the public body is a part or to which it reports. If the court determines that a public officer with intent to deprive the public of information knowingly violated any provision of this article, the court may remove the public officer from office and shall assess the public officer or a person who knowingly aided, agreed to aid or attempted to aid the public officer in violating this article, or both, with all of the costs and attorney fees awarded to the plaintiff pursuant to this section.

- B. A public body shall not expend public monies to employ or retain legal counsel to provide legal services or representation to the public body or any of its officers in any legal action commenced pursuant to any provisions of this article, unless the public body has authority to make the expenditure pursuant to other provisions of law and takes a legal action at a properly noticed open meeting approving the expenditure before incurring any obligation or indebtedness.
- C. In any action brought pursuant to this section challenging the validity of an executive session, the court may review in camera the minutes of the executive session, and if the court in its discretion determines that the minutes are relevant and that justice so demands, the court may disclose to the parties or admit in evidence part or all of the minutes.

§ 38-431.08. Exceptions; limitation

- A. This article does not apply to:
 - 1. Any judicial proceeding of any court or any political caucus of the legislature.
 - 2. Any conference committee of the legislature, except that all such meetings shall be open to the public.
 - 3. The commissions on appellate and trial court appointments and the commission on judicial qualifications.
 - 4. Good cause exception and central registry exception determinations and hearings conducted by the board of fingerprinting pursuant to sections 41-619.55 and 41-619.57.
 - 5. The exchange of communications among a quorum of a three-member advisory committee or subcommittee that involves a discussion or deliberation concerning a matter before the advisory committee or subcommittee. The three-member advisory committee or subcommittee may not include more than one member who is a member of any public body.

- B. A hearing held within a prison facility by the board of executive clemency is subject to this article, except that the director of the state department of corrections may:
 - 1. Prohibit, on written findings that are made public within five days after so finding, any person from attending a hearing whose attendance would constitute a serious threat to the life or physical safety of any person or to the safe, secure and orderly operation of the prison.
 - 2. Require a person who attends a hearing to sign an attendance log. If the person is over sixteen years of age, the person shall produce photographic identification that verifies the person's signature.
 - 3. Prevent and prohibit any articles from being taken into a hearing except recording devices, and if the person who attends a hearing is a member of the media, cameras.
 - 4. Require that a person who attends a hearing submit to a reasonable search on entering the facility.
- C. The exclusive remedies available to any person who is denied attendance at or removed from a hearing by the director of the state department of corrections in violation of this section shall be those remedies available in section 38-431.07, as against the director only.
- D. Either house of the legislature may adopt a rule or procedure pursuant to article IV, part 2, section 8, Constitution of Arizona, to provide an exemption to the notice and agenda requirements of this article or to allow standing or conference committees to meet through technological devices rather than only in person.

§ 38-431.09. Declaration of public policy

- A. It is the public policy of this state that meetings of public bodies be conducted openly and that notices and agendas be provided for such meetings which contain such information as is reasonably necessary to inform the public of the matters to be discussed or decided. Toward this end, any person or entity charged with the interpretations of this article shall construe this article in favor of open and public meetings.
- B. Notwithstanding subsection A, it is not a violation of this article if a member of a public body expresses an opinion or discusses an issue with the public either at a venue other than at a meeting that is subject to this article, personally, through the media or other form of public broadcast communication or through technological means if:
 - 1. The opinion or discussion is not principally directed at or directly given to another member of the public body.

2. There is no concerted plan to engage in collective deliberation to take legal action.

Part II – Attorney General Handbook – Open Meeting Law

Arizona Agency Handbook

Chapter 7

Open Meetings

Last Amended 2018

The Attorney General’s Agency Handbook can be found at the following web site: <https://www.azag.gov/outreach/publications/agency-handbook>.

7.1	Scope of this Chapter.	20
7.2	Arizona's Open Meeting Law.	20
7.2.1	History of Arizona's Open Meeting Law.	20
7.2.2	Legislative Intent.	20
7.3	Government Bodies Covered by the Open Meeting Law.	21
7.3.1	Generally.	21
7.3.2	Boards and Commissions.	22
7.3.3	Quasi-Governmental Corporations.	22
7.3.4	Quasi-Judicial Bodies.	23
7.3.5	Advisory Committees.	24
7.3.6	Special and Standing Committees and Subcommittees.	24
7.4	Government Bodies and Proceedings Not Covered by the Open Meeting Law.	24
7.4.1	Judicial Appointment Commissions.	24
7.4.2	Proceedings Before Courts.	25
7.4.3	The Legislature.	25
7.4.4	Student Disciplinary Proceedings.	25
7.4.5	Insurance Guaranty Fund Boards.	25
7.4.6	Hearings Held in Prison Facilities.	25
7.4.7	Board of Fingerprinting.	25
7.4.8	Homeowners Associations.	26
7.5	Actions and Activities Covered by the Open Meeting Law.	26
7.5.1	Generally.	26
7.5.2	Circumventing the Open Meeting Law.	27
7.5.3	Applicability to Staff Members and Others.	28
7.6	Notice of Meetings.	28
7.6.1	Generally.	28
7.6.2	Notice to Members of the Public Body.	28
7.6.3	Notice to the Public.	28
7.6.3.1	Disclosure Statement.	29
7.6.3.2	Public Notice of Meetings.	29
7.6.4	Contents of the Notice.	30
7.6.5	Time for Giving Notice.	30
7.6.6	Notice of Regular Meetings.	31
7.6.7	Notice of Executive Sessions.	31

7.6.8 Maintaining Records of Notice Given..... 32

7.7 Agendas..... 32

7.7.1 Generally..... 32

7.7.2 Contents of the Agenda -- Public Meeting..... 32

7.7.3 Contents of the Agenda -- Executive Session..... 33

7.7.4 Distribution of the Agenda..... 34

7.7.5 Consent Agendas..... 34

7.7.6 Discussing and Deciding Matters Not Listed on the Agenda..... 35

7.7.7 Calls to the Public..... 35

7.7.8 Current Event Summaries..... 36

7.7.9 Emergencies..... 36

7.7.10 Changes to the Agenda..... 37

7.8 Minutes..... 37

7.8.1 Form of and Access to the Minutes..... 37

7.8.2 Contents of the Minutes of Public Meetings..... 38

7.8.3 Contents of the Minutes of Executive Sessions..... 39

7.9 Executive Sessions..... 40

7.9.1 Deciding to Go Into Executive Session..... 40

7.9.2 Executive Session Requirements..... 41

7.9.3 Taking Legal Action..... 41

7.9.4 Confidentiality of Executive Sessions..... 41

7.9.5 Authorized Executive Sessions..... 42

7.9.5.1 Personnel Matters..... 43

7.9.5.2 Confidential Records..... 44

7.9.5.3 Legal Advice..... 45

7.9.5.4 Litigation, Contract Negotiations, and Settlement Discussions..... 45

7.9.5.5 Discussions with Designated Representatives Regarding Salary
Negotiations..... 47

7.9.5.6 International, Interstate, and Tribal Negotiations..... 47

7.9.5.7 Purchase, Sale or Lease of Real Property..... 47

7.10 Public Participation and Access to Meetings..... 48

7.10.1 Public Participation..... 48

7.10.2 Public Access..... 48

7.10.3 Remote Conferencing..... 49

7.11 Quorum..... 49

7.12 Ratification..... 50

7.12.1 Generally..... 50

7.12.2 Procedure for Ratification..... 50

7.13 Sanctions for Violations of the Open Meeting Law..... 51

7.13.1 Nullification..... 51

7.13.2 Investigation and Enforcement..... 52

7.13.3 Civil Penalties..... 53

7.13.4 Attorney's Fees..... 53

**7.13.5 Expenditure for Legal Services by Public Body Relating to the
Open Meeting Law. 54**

7.13.6 Removal From Office. 54

CHAPTER 7

OPEN MEETINGS

7.1 Scope of this Chapter.

This Chapter discusses Arizona's Open Meeting Law, A.R.S. §§ 38-431 to - 431.09, with particular emphasis on the application of the Open Meeting Law to the day-to-day operations of state officers, bodies, and agencies. This Chapter shall be conspicuously posted on the Secretary of State's website for state public bodies, the city or town clerk for municipal public bodies and the county clerk for all other local public bodies. A.R.S. § 38-431.01(G). Individuals elected or appointed to a public body shall review this Chapter at least one day before taking office. *Id.*

This Chapter does not resolve all issues that may arise under the Open Meeting Law, but rather is intended to serve as a reference for public officials who must comply with the Open Meeting Law. Officials faced with a situation not specifically addressed in this Chapter should consult their legal counsel before proceeding.

7.2 Arizona's Open Meeting Law.

7.2.1 History of Arizona's Open Meeting Law.

All fifty states have enacted some type of legislation providing the public with a statutory right to openness in government. In addition, in 1976 the United States Congress enacted the Federal Open Meeting Act, 5 U.S.C. § 552b. Arizona enacted its Open Meeting Law in 1962 and has since amended it several times. For a detailed discussion of the early history of the Open Meeting Law through 1975, see Ariz. Att'y Gen. Op. 75-7.

7.2.2 Legislative Intent.

The Legislature has repeatedly expressed its intent that the Open Meeting Law be construed to maximize public access to the governmental process. In first enacting the Open Meeting Law in 1962, the Legislature declared that: "It is the public policy of this state that proceedings in meetings of governing bodies of the state and political subdivisions thereof exist to aid in the conduct of the people's business. It is the intent of this act that their official deliberations and proceedings be conducted openly."

In 1978, after a series of court opinions narrowly construing the Open Meeting Law, the Legislature reiterated its policy by adding A.R.S. § 38-431.09(A). That statute now provides:

It is the public policy of this state that meetings of public bodies be conducted openly and that notices and agendas be provided for such meetings which contain such information as is reasonably necessary to inform the public of the matters to be discussed or decided. Toward this end, any person or entity charged with the interpretation of this article shall construe any provision of this article in favor of open and public meetings.

A.R.S. § 38-431.09(A).

In keeping with this expressed intent, any uncertainty under the Open Meeting Law should be resolved in favor of openness in government. Any question whether the Open Meeting Law applies to a certain public body likewise should be resolved in favor of applying the law.

7.3 Government Bodies Covered by the Open Meeting Law.

7.3.1 Generally.

The provisions of the Open Meeting Law apply to all public bodies. A public body is defined in A.R.S. § 38-431(6) as follows:

“Public body” means the legislature, all boards and commissions of this state or political subdivisions, all multimember governing bodies of departments, agencies, institutions and instrumentalities of this state or political subdivisions, including without limitation all corporations and other instrumentalities whose boards of directors are appointed or elected by this state or a political subdivision. Public body includes all quasi-judicial bodies and all standing, special or advisory committees or subcommittees of, or appointed by, the public body. Public body includes all commissions and other public entities established by the Arizona Constitution or by way of ballot initiative, including the independent redistricting commission, and this article applies except and only to the extent that specific constitutional provisions supersede this article.

This definition specifically includes public bodies of all political subdivisions. A political subdivision is defined in A.R.S. § 38-431(5) to include "all political subdivisions of this state, including without limitation all counties, cities and towns, school districts and special districts."

The definition encompasses five basic categories of public bodies: 1) boards, commissions, and other multimember governing bodies, including those

“established by the Arizona Constitution or by way of ballot initiative;” 2) quasi-governmental corporations; 3) quasi-judicial bodies; 4) advisory committees; and 5) standing and special committees and subcommittees of any of the above. *See* A.R.S. § 38-431(6).

7.3.2 Boards and Commissions.

The Open Meeting Law covers all boards and commissions and other multimember governing bodies of the state or its political subdivisions or of the departments, agencies, institutions, and instrumentalities of the state or its political subdivisions. *See* A.R.S. § 38-431(6). The multimember governing body must be created by law or by an official act pursuant to some legal authority. *See id.* Examples of public bodies created by law include the Arizona Legislature, county boards of supervisors, city and town councils, school boards, the governing boards of special districts, and all state, county, and municipal licensing and regulatory boards. *See, e.g.* Ariz. Att’y Gen. Op. I07-001 (Open Meeting Law applies to board appointed by governing bodies of various political subdivisions to administer employee benefits program). Ariz. Att’y Gen. Op. I04-001 (Open Meeting Law applies to joint underwriting association because it’s a multimember governing body created by statute). In addition, the Legislature amended the definition of public body specifically to include “all commissions and other public entities established by the Arizona Constitution or by way of ballot initiative, including the independent redistricting commission, and this article applies except and only to the extent that specific constitutional provisions supersede this article.” A.R.S. § 38-431(6).

The Open Meeting Law applies only to multimember bodies and does not apply to the deliberations and meetings conducted by the single head of an agency. *See* Ariz. Att’y Gen. Ops. I92-007, 75-7. Accordingly, the director of a department or state agency is not subject to the Open Meeting Law when meeting with staff members to discuss the operations of the department.

7.3.3 Quasi-Governmental Corporations.

The boards of directors of corporations and instrumentalities of the state or its political subdivisions are subject to the Open Meeting Law when the members of the board are appointed or elected by the state or its political subdivisions. *See* A.R.S. § 38-431(5), (6). In order to determine whether a quasi-governmental corporation or other entity is an “instrumentality,” and thus a “public body,” under the Open Meeting Law, one should consider the following factors that indicate the degree to which governmental interests dominate the nature of the entity. *See* Ariz. Att’y Gen. Op. I07-001.

1. The entity's origin (whether it was created by the government or independently of the government). For example, the Open Meeting

Law does not apply to a private non-profit hospital association that has a board of directors elected by the electorate of the hospital district. *Prescott Newspapers, Inc. v. Yavapai Cmty. Hosp. Ass'n*, 163 Ariz. 33, 785 P.2d 1221 (App. 1989). See Ariz. Att'y Gen. Op. I07-001.

2. The nature of the function assigned to and performed by the entity, *i.e.*, whether that function is one traditionally associated with government or is one commonly performed by private entities. For example, the board of trustees of a trust formed by several public bodies to administer employee benefit programs on their behalf would have a governmental function that supports a finding that the board is a public body.

3. The scope of authority granted to and exercised by the entity, *i.e.*, whether the entity has authority to make binding governmental decisions or is it limited to making nonbinding recommendations.

4. The nature and level of government financial involvement with the entity.

5. The nature and scope of government control over the entity's operation.

6. The status of the entity's officers and employees, *i.e.*, whether the officers and employees are government officials or government employees.

7.3.4 Quasi-Judicial Bodies.

The Open Meeting Law defines a quasi-judicial body as "a public body, other than a court of law, possessing the power to hold hearings on disputed matters between a private person and a public agency and to make decisions in the general manner of a court regarding such disputed claims." A.R.S. § 38-431(7). The legislature added this definition in 1978 to reverse the Arizona Supreme Court's decision in *Ariz. Press Club, Inc. v. Ariz. Bd. of Tax Appeals*, 113 Ariz. 545, 558 P.2d 697 (1976), which held that the Open Meeting Law did not apply to bodies conducting quasi-judicial functions, such as license revocation proceedings. See Ariz. Att'y Gen. Op. 78-245. The Arizona Board of Tax Appeals and similar quasi-judicial bodies are now covered by the Open Meeting Law. A.R.S. § 38-431(6), (7).

Contested case proceedings or quasi-judicial or adjudicatory proceedings conducted by public bodies are subject to all of the requirements of the Open Meeting Law. *Rosenberg v. Ariz. Bd. of Regents*, 118 Ariz. 489, 578 P.2d 168

(1978); *City of Flagstaff v. Bleeker*, 123 Ariz. 436, 600 P.2d 49 (App. 1979); Ariz. Att'y Gen. Op. 75-7.

7.3.5 Advisory Committees.

Advisory committees are subject to all of the requirements of the Open Meeting Law. A.R.S. § 38-431(6). An advisory committee is defined as

any entity, however designated, that is officially established, on motion and order of a public body or by the presiding officer of the public body, and whose members have been appointed for the specific purpose of making a recommendation concerning a decision to be made or considered or a course of conduct to be taken or considered by the public body.

A.R.S. § 38-431(1).

This definition does not include advisory groups established by the single head of an agency unless they are created pursuant to a statute, city charter, or other provision of law or by an official act pursuant to some legal authority. *See* Ariz. Att'y Gen. Op. I92-007; Section 7.3.2.

7.3.6 Special and Standing Committees and Subcommittees.

Special and standing committees and subcommittees of, or appointed by, any of the public bodies described above are also covered by the Open Meeting Law. A.R.S. § 38-431 (6). A special or standing committee may consist of members of the public body who have been appointed by or authorized to act for the public body. A.R.S. § 38-431(6). The fact that a committee consists, in whole or in part, of persons who are not members of the public body does not affect its status as a public body subject to the Open Meeting Law. *See* Ariz. Att'y Gen. Op. I80-202.

7.4 Government Bodies and Proceedings Not Covered by the Open Meeting Law.

Certain public bodies need not comply with all or portions of the Open Meeting Law in particular circumstances. This section identifies some of those limited exceptions.

7.4.1 Judicial Appointment Commissions.

The Commissions on Appellate and Trial Court Appointments and the Commission on Judicial Qualifications are expressly exempt from the Open Meeting Law. A.R.S. § 38-431.08(A)(3).

7.4.2 Proceedings Before Courts.

The Open Meeting Law does not apply to judicial proceedings of courts within the judicial branch of government. A.R.S. §§ 38-431(7), -431.08(A)(1).

7.4.3 The Legislature.

Meetings of legislative conference committees must be open to the public; however, the committees are exempted from all other requirements of the Open Meeting Law. A.R.S. § 38-431.08(A)(2). The Open Meeting Law does not apply to the activities of a political caucus of the Legislature. *Id.* § (A)(1); *cf.* Ariz. Att'y Gen. Op. I83-128. The Open Meeting Law permits either house of the Legislature to adopt a rule or procedure exempting itself from the notice and agenda requirements of the Open Meeting Law or to allow standing or conference committees to meet through technological devices rather than in person. A.R.S. § 38-431.08(D).

7.4.4 Student Disciplinary Proceedings.

Actions concerning the "discipline, suspension or expulsion of a pupil" are not subject to the Open Meeting Law. A.R.S. § 15-843(A). This same statute, however, prescribes the procedures that the school board must follow in handling these matters.

7.4.5 Insurance Guaranty Fund Boards.

Special meetings of the property and casualty insurance guaranty fund in which the financial condition of any member insurer is discussed are exempt from the Open Meeting Law. A.R.S. § 20-671.

7.4.6 Hearings Held in Prison Facilities.

Hearings held by the Board of Pardons and Paroles in a prison facility are subject to the Open Meeting Law, but the Director of the State Department of Corrections may prohibit certain individuals from attending such hearings because they pose a serious threat to the safety and security of others or the prison. Other conditions on attendance, such as signing an attendance log and submitting to a reasonable search, may be imposed as well. A.R.S. § 38-431.08(B).

7.4.7 Board of Fingerprinting.

Good cause exception hearings conducted by the Board of Fingerprinting pursuant to A.R.S. § 41-619.55 are exempt from the Open Meeting Law. A.R.S. § 38-431.08(A)(4).

7.4.8 Homeowners Associations.

Because they are not governmental "public bodies," homeowners associations are not covered by the Open Meeting Law. Ariz. Att'y Gen. Op. 97-012. They must, however, comply with separate notification requirements. *Id.* Those requirements must be enforced privately because the Attorney General and County Attorneys have no jurisdiction over such matters. For more information on the requirements of homeowners associations, *see* A.R.S. § 33-1801 *et seq.*

7.5 Actions and Activities Covered by the Open Meeting Law.

7.5.1 Generally.

All meetings of a public body shall be public, and all persons desiring to attend shall be permitted to attend and listen to the deliberations and proceedings. A.R.S. § 38-431.01(A). All legal action of public bodies shall occur during a public meeting. *Id.* A meeting is defined as "the gathering, in person or through technological devices, of a quorum of the members of a public body at which they discuss, propose or take legal action, including any deliberations by a quorum with respect to that action." A.R.S. § 38-431(4). It does not matter what label is placed on a gathering; it may be called a "work" or "study" session, or the discussion may occur at a social function. Ariz. Att'y Gen. Op. 179-4.

Put simply, all discussions, deliberations, considerations, or consultations among a majority of the members of a public body regarding matters that may foreseeably require final action or a final decision by the governing body, constitute "legal action" and, therefore, must be conducted in a public meeting or executive session in accordance with the Open Meeting Law. Ariz. Att'y Gen. Ops. 75-8, 179-4. *See also* A.R.S. §§ 38-431.01(A), -431(3) and Ariz. Att'y Gen. Op. 105-004. The key to this inquiry is whether the matter to be discussed may foreseeably require final action. It is difficult to say precisely when this foreseeability test has been met. Each case should be viewed on its own merits with doubts resolved in favor of compliance with the Open Meeting Law. The safest course of action is to assume the Open Meeting Law applies whenever a majority of the body discusses the business of the public body.

"Even if communications on a particular subject between members of a public body do not take place at the same time or place, the communications can nonetheless constitute a 'meeting.'" *See Del Papa v. Bd. of Regents of Univ. and Cmty. Coll. Sys. Of Nev.*, 114 Nev. 388, 393, 956 P.2d 770, 774 (1998) (rejecting the argument that a meeting did not occur because the board members were not together at the same time and place). Accordingly, the definition of meeting was modified by the Arizona Legislature in 2000 to prohibit a quorum of a public body from secretly communicating through technological devices (including, for example, facsimile machines, telephones, texting, and e-mail),

and further modified in 2018 in order to provide additional guidance on electronic communications. The following instances of electronic communication are now expressly considered “meetings” under the Open Meeting Law:

1. “A one-way electronic communication by one member of a public body that is sent to a quorum of the members of a public body and that proposes legal action.”
2. “An exchange of electronic communications among a quorum of the members of a public body that involves a discussion, deliberation or the taking of legal action by the public body concerning a matter likely to come before the public body for action.”

A.R.S. § 38-431(4)(b). If an electronic communication from one member of the public body proposes legal action and is sent to enough members of the public to form a quorum, a violation occurs even if no member of the public body responds to the electronic communication. A.R.S. § 38-431(4)(b)(i). However, other one-way communications, with no further exchanges, are not *per se* violations, and further examination of the facts and circumstances would be necessary to determine if a violation occurred. Ariz. Att’y Gen. Op. I05-004.

While discussion of the public body's business may take place only in a public meeting or an executive session in accordance with the requirements of the Open Meeting Law, the Open Meeting Law does not prohibit a member of a public body from voicing an opinion or discussing an issue with the public either at a venue other than a public meeting of the body, or through media outlets or other public broadcast communications or technological means, so long as the "opinion or discussion is not principally directed at or directly given to another member of the public body," and "there is no concerted plan to engage in collective deliberation to take legal action." A.R.S. § 38-431.09(B); Ariz. Att’y Gen. Op. I07-013.

7.5.2 Circumventing the Open Meeting Law.

Discussions and deliberations (in person or otherwise) between less than a majority of the members of a governing body, violate the Open Meeting Law when used to circumvent the purposes of the Open Meeting Law. *See* Ariz. Att’y Gen. Op. 75-8; *Town of Palm Beach v. Gradison*, 296 So. 2d 473 (Fla. 1974). Public officials may not circumvent public discussion by splintering the quorum and having separate or serial discussions with a majority of the public body members. Splintering the quorum can be done by meeting in person, by telephone, electronically, or through other means to discuss a topic that has been or later may be presented to the public body for a decision. Public officials should refrain from any activities that may undermine public confidence in the

public decision making process established in the Open Meeting Law, including actions that may appear to remove discussions and decisions from public view.

7.5.3 Applicability to Staff Members and Others.

The Open Meeting Law further provides that members of public bodies shall not knowingly direct any staff member to communicate in violation of the Open Meeting Law. A.R.S. § 38-431.01(I). People knowingly aiding, agreeing to aid or attempting to aid another person in violating the Open Meeting Law can be liable for civil penalties, attorneys' fees, and costs pursuant to A.R.S. § 38-431.07(A). *See* Sections 7.13.3 and 7.13.4. Splintering a quorum may also occur when members of a public body share their positions and proposals with other public body members through staff members or other non-members. For example, a staff member who meets with each member individually regarding official business and then shares the comments made by other members would violate the Open Meeting Law. Although a staff member may provide information to members separately (*see* Ariz. Att'y Gen. Op. 105-004 at 9), that person must be careful not to facilitate a discussion or deliberation by a quorum through sharing information with other members in subsequent meetings.

7.6 Notice of Meetings.

7.6.1 Generally.

The Open Meeting Law generally requires at least twenty-four hour advance notice of all meetings to the public body and to the general public. A.R.S. § 38-431.02(C). Notice enables members of the public to attend public meetings by informing them of when and where to go, and how to get information regarding the matters under consideration. Arizona courts have emphasized the importance of sufficient notice. The Arizona Court of Appeals explained, "[t]he notice provisions in the open meeting law are obviously designed to give meaningful effect to provisions such as A.R.S. §§ 38-431.01(A) and 38-431.09. The goal of exposing the public decision-making process to the public itself could be significantly, if not totally thwarted, in the absence of mandatory notice provisions and their enforcement." *Carefree Improvement Ass'n v. City of Scottsdale*, 133 Ariz. 106, 111, 649 P.2d 985, 990 (App. 1982).

7.6.2 Notice to Members of the Public Body.

Notice of all meetings, including executive sessions, must be given to the members of the public body. A.R.S. § 38-431.02(B), (C).

7.6.3 Notice to the Public.

Notice of all meetings, including executive sessions, must be given to the public. A.R.S. § 38-431.02. Giving public notice is a two-step process. *Id.*

7.6.3.1 Disclosure Statement.

The first step is for the public body to conspicuously post a disclosure statement identifying the physical and electronic locations where public notices of meetings will be displayed. A.R.S. § 38-431.02(A). *See* Form 7.1. Public bodies of the State, counties, school districts, and governing bodies of charter schools must post the disclosure statement on their websites. *Id.* § (A)(1)-(2). Special districts governed by Title 48, A.R.S., must post the required disclosure statement on their own website or may file it with the Clerk of the Board of Supervisors. *Id.* § (A)(3). Public bodies of cities and towns must post the required information on their own websites or on the website of an association of towns and cities. *Id.* § (4). The notification location identified in the statement must be a place to which the public has reasonable access. *Carefree Improvement Ass'n v. City of Scottsdale*, 133 Ariz. 106, 111, 649 P.2d 985, 990 (App. 1982). The location should have normal business hours, should not be geographically isolated, should not have limited access, and should not be difficult to find.

7.6.3.2 Public Notice of Meetings.

Once the disclosure statement has been filed or posted, the second step is for the public body to give notice of each of its meetings by posting a copy of the notice on its website as well as at the location identified in the disclosure statement. A.R.S. § 38-431.02(A). *See* Forms 7.2, 7.3, 7.4. Public bodies shall also give "additional public notice as is reasonable and practicable as to all meetings." *Id.* § (A)(1)(a).

If there is a "technological problem or failure that either prevents the posting of public notices on a website or that temporarily or permanently prevents the use of all or part of the website" and all other public notice requirements are met, then the meeting can convene as scheduled. *Id.* § (A)(1)(b). Given the possibility of complaints or litigation in such situations, the public body should document the nature and duration of the technological problem or failure along with an explanation of how it affected the ability of the public body to post proper notice of the public meeting.

In addition to complying with the requirements of the Open Meeting Law, the notice should conform with the provisions of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12101 - 12213. *See* Section 15.27. This may include the addition of a statement such as the following in any notices that the public body issue: "Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting [name of designated agency contact person] at [telephone number and TDD telephone number]. Requests should be made as early as possible to allow time to arrange the accommodation."

7.6.4 Contents of the Notice.

Generally, the notice should include information identifying the public body and the date, time, and place of the meeting. *See* Forms 7.2, 7.3. In identifying the place of the meeting, the notice should specify the street address of the building and the room number or other information identifying the specific room in which the meeting will be held. *See* Form 7.7 (Sample Notice and Agenda).

In addition, notices of public meetings and notices of executive sessions must contain an agenda of the matters to be considered by the public body at the meeting or information on how the public may obtain a copy of such an agenda. A.R.S. § 38-431.02(G). For a complete discussion of the agenda requirements, *see* Section 7.7. Notice of a public meeting at which the public body intends to ratify a prior act must contain additional specific information. *See* Section 7.12; Form 7.12.

7.6.5 Time for Giving Notice.

As a general rule, a meeting may not be held without giving the required notice at least twenty-four hours before the meeting. A.R.S. § 38-431.02(C). For purposes of the statute, the twenty-four hour period excludes Sundays and holidays. *Id.* Saturdays are included in the period if the public has access to the physical and electronic posted locations. *Id.* Of course, the best practice is for public bodies to give as much notice as possible. The public body may consider including with the notice a certification by the person responsible for posting the notice that states the time and location that the notice was posted. *See* Form 7.8 below.

There are three exceptions to the twenty-four hour notice requirement.

First, in the case of an "actual emergency," the meeting may be held upon such shorter notice as is "appropriate to the circumstances." § 38-431.02(D). An actual emergency exists when, due to unforeseen circumstances, immediate action is necessary to avoid some serious consequence that would result from waiting until the required notice could be given. *See Carefree Improvement Ass'n v. City of Scottsdale*, 133 Ariz. 106, 113, 649 P.2d 985, 992 (App. 1982). The existence of an actual emergency does not dispense with the need to give twenty-four hours written notice to an employee who is to be discussed in executive session. A.R.S. § 38-431.03(A)(1); Ariz. Att'y Gen. Op. I90-19; *see* Sections 7.7.9 and 7.9.5.1.

Second, notice of a meeting at which the public body will consider ratifying a prior act taken in violation of the Open Meeting Law must be given seventy-two hours in advance of the meeting. A.R.S. § 38-431.05(B)(4); *see* Section 7.12.

Finally, less than twenty-four hours notice may be given when a properly noticed meeting is recessed to the next day. A.R.S. § 38-431.02(E). A meeting may be recessed and resumed with less than twenty-four hour notice if public notice of the initial session of the meeting is given and, if before recessing, notice is publicly given as to the time and place of the resumption of the meeting or the method by which notice shall be publicly given. *Id.* Notice of the resumption of a meeting must comply with the agenda requirements respecting the matters to be addressed when resumed. *Id.* § (G). This may be accomplished by the presiding officer of the public body either stating at the meeting the time, place, and agenda of the resumed meeting or stating where a written notice and agenda of the resumed meeting will be posted. If an executive session is to be recessed and resumed with less than twenty-four hour notice, the time, place, and agenda of the resumed meeting should be communicated to the members of the public body and to the public by reconvening in public session and following one of the two steps described above. If the meeting will not reconvene for more than twenty-four hours, a new meeting notice and agenda is recommended.

7.6.6 Notice of Regular Meetings.

A public body that intends to meet for a specified calendar period on a regular day or date during the calendar period, and at a regular place and time, may post public notice of such meetings at the beginning of such period and need not post additional notices for each meeting. A.R.S. § 38-431.02(F); *see* Form 7.4. The notice must specify the applicable notice period. *Id.* However, this method of posting notice will not satisfy the agenda requirements unless the notice also contains a clear statement that the agenda for any such meeting will be available at least twenty-four hours in advance of the meeting and a statement as to where and how the public may obtain a copy of the agenda. A.R.S. § 38-431.02(G).

7.6.7 Notice of Executive Sessions.

When a public body intends to conduct an executive session, the notice must state the specific provision of law authorizing the executive session. A.R.S. § 38-431.02(B); *see* Form 7.5. This provision requires that the notice specify the numbered paragraph of subsection (A) of A.R.S. § 38-431.03 that authorizes the executive session. A general citation to A.R.S. § 38-431.03 or subsection (A) of that section is insufficient. For example, a public body intending to meet in executive session for purposes of discussing the purchase or lease of real property must cite in its notice "A.R.S. § 38-431.03(A)(7)." The public body must cite only the paragraphs applicable to the matters to be discussed and cannot issue a standardized form notice that cites all executive session provisions. In addition, an agenda is required for an executive session and must contain only a "general description of the matters to be considered." A.R.S. § 38-431.02(I); *see* Section 7.7.3.

In the case of an executive session concerning personnel matters, the public body must give written notice to the affected officer, appointee, or employee in addition to the public notice described above. A.R.S. § 38-431.03(A)(1); *see* Section 7.9.5.1; Form 7.13. Such written notice must be provided not less than twenty-four hours before the scheduled meeting. A.R.S. § 38-431.03(A)(1).

Many public bodies do not know whether they will have any legal questions regarding matters on the agenda until the discussion occurs. The Attorney General previously opined that public bodies may provide with their notices and agendas a statement that matters on the public meeting agenda may be discussed in executive session for the purpose of obtaining legal advice thereon, pursuant to A.R.S. § 38-431.03(A)(3). *Ariz. Att'y Gen. Op. 190-19*. An example of such a statement is "The Board may vote to hold an executive session for the purpose of obtaining legal advice from the Board's attorney on any matter listed on the agenda pursuant to A.R.S. § 38-431.03(A)(3)." Similar statements are not sufficient for other types of executive sessions. *See* Section 7.7 for further discussion.

7.6.8 Maintaining Records of Notice Given.

Best practice provides that each public body keep a record of its notices, including a copy of each notice that was posted and information regarding the date, time, and place of posting. A suggested procedure is to file in the records of the public body a copy of the notice and a certification in a form similar to Form 7.8.

7.7 Agendas.

7.7.1 Generally.

In addition to notice of the time, date, and place of the meeting, the public body must provide an agenda of the matters to be discussed, considered, or decided at the meeting. A.R.S. § 38-431.02(G).

Although this Section provides guidelines for the preparation of agendas, it does not answer every question that may arise. Specific problems should be discussed with the public body's legal counsel. As a general rule, public bodies should always be mindful of the Legislature's declaration of policy that agendas "contain such information as is reasonably necessary to inform the public of the matters to be discussed or decided." A.R.S. § 38-431.09(A). When in doubt, resolve questions in favor of greater disclosure of information.

7.7.2 Contents of the Agenda -- Public Meeting.

The agenda for a public meeting must contain a listing of the "specific matters to be discussed, considered or decided at the meeting." A.R.S. § 38-431.02(H).

This requirement does not permit the use of generic agenda items such as "personnel," "new business," "old business," "reports," or "other matters" unless the specific matters or items to be discussed are separately identified in conjunction with the general terms. *See Thurston v. City of Phoenix*, 157 Ariz. 343, 344, 757 P.2d 619, 620 (App. 1988). The degree of specificity depends on the circumstances. *See* Form 7.7 (Sample Notice and Agenda). Consider the following examples:

- "Discussion and possible action to approve the application of pesticides within 1/4 mile of a school" if an environmental board is going to consider whether to approve the application of any pesticide within 1/4 mile of a school;
- "Discussion and possible action to remove Pesticide-A from list of approved pesticides" if the environmental board is going to consider removing a specific pesticide from an approved list;
- "Discussion and possible action regarding budget priorities and revisions for upcoming fiscal year" if a board intends to generate and discuss a number of different options for managing its budget;
- "Discussion and possible action regarding elimination of funding from budget for travel reimbursements, computer upgrades, and laptops for board members" if a board intends to only focus on specific options to revise a budget.

If it is likely that the public body will find it necessary to discuss any particular agenda item in executive session with the public body's attorney, the agenda should plainly state so, even if the general notice of executive session for legal advice is on the agenda. For example, the agenda might include a provision stating "The Board may vote to hold an executive session for the purpose of obtaining legal advice from the Board's attorney on the approval of pesticides for application within 1/4 mile of a school pursuant to A.R.S. § 38-431.03(A)(3)."

7.7.3 Contents of the Agenda -- Executive Session.

The agenda for an executive session must contain a "general description of the matters to be considered." A.R.S. § 38-431.02(I). The description must amount to more than just a recital of the statutory provisions authorizing the executive session, but should not contain any information that "would defeat the purpose of the executive session, compromise the legitimate privacy interests of a public officer, appointee or employee or compromise the attorney-client privilege." *Id.*

In preparing executive session agenda items, the public body must weigh the legislative policy favoring public disclosure and the legitimate confidentiality concerns underlying the executive session provision. For example, if a board desires to consider the possible dismissal of its executive director, the board may list on the agenda "Personnel matter - consideration of continued employment of the board's executive director." However, when the public disclosure of the

board's consideration of charges against an employee might needlessly harm the employee's reputation or compromise the employee's privacy interests, the board may eliminate from the agenda a description of the identity of the employee being considered, but must still indicate on the agenda that an employee of the public body is the subject of the executive session. If it is already publicly known that the board is considering charges against the employee, disclosure of the employee's identity in the agenda would not defeat the purpose of the executive session.

7.7.4 Distribution of the Agenda.

The agenda may be made available to the public by including it as part of the public notice or by stating in the public notice how the public may obtain a copy of the agenda and then distributing the agenda in the manner prescribed. A.R.S. § 38-431.02(G); *see* Forms 7.2 - 7.4, 7.6, 7.7. Because both the public notice and the agenda must be available at least twenty-four hours in advance of a meeting, the simplest procedure is to include the agenda with the public notice. *See* Form 7.7 (Sample Notice and Agenda). However, when issuing public notice well in advance of a meeting, as in the case of notice of regularly scheduled meetings, *see* Section 7.6.6, it may be more appropriate to state how the public may obtain a copy of the agenda and distribute it accordingly.

7.7.5 Consent Agendas.

Public bodies may use "consent agendas" if they meet certain requirements. Consent agendas are typically used as a time-saving device when there are certain items on the agenda which are unlikely to generate controversy and are ministerial in nature. Some examples are approval of travel requests and approval of minutes. Public bodies often take one vote to approve or disapprove the consent agenda as a whole. When using a consent agenda format for some of the items on a meeting agenda, public bodies should fully describe the matters on the agenda and inform the public where more information can be obtained. A good practice is to require the removal of an item from the consent agenda upon the request of any member of the public body. *See* Form 7.7 (Sample Notice and Agenda).

Public bodies should exercise caution when using consent agendas. The Arizona Supreme Court previously held that taking legal action, taken after an executive session, must be preceded by a disclosure of "that amount of information sufficient to apprise the public in attendance of the basic subject matter of the action so that the public may scrutinize the action taken during the meeting." *Karol v. Bd. of Educ. Trustees*, 122 Ariz. 95, 98, 593 P.2d 649, 652 (1979). The Court also condemned the practice of voting on matters designated only by number, thereby effectively hiding actions from public examination. *Id.*

7.7.6 Discussing and Deciding Matters Not Listed on the Agenda.

The public body may discuss, consider, or decide only those matters listed on the agenda and "other matters related thereto." A.R.S. § 38-431.02(H). The "other matters" clause provides some flexibility to a public body but should be construed narrowly. The "other matters" must in some reasonable manner be "related" to an item specifically listed on the agenda. *Thurston v. City of Phoenix*, 157 Ariz. 343, 344, 757 P.2d 619, 620 (App. 1988).

If a matter not specifically listed on the agenda is brought up during a meeting, the better practice, and the one that will minimize subsequent litigation, is to defer discussion and decision on the matter until a later meeting so that the item can be specifically listed on the agenda. If the matter demands immediate attention and is a true emergency, the public body should consider using the emergency exception described in Section 7.7.9.

However, if action is taken at a meeting on an item not properly noticed, then that particular action violates the Open Meeting Law and is null and void. *Johnson v. Tempe Elementary Sch. Dist. No. 3 Governing Bd.*, 199 Ariz. 567, 570, 20 P.3d 1148, 1151 (App. 2001); A.R.S. § 38-431.05(A). The public body may ratify the action pursuant to A.R.S. § 38-431.05(B), although the violation may still subject the public body to the penalties described in A.R.S. § 38-431.07(A). Any other actions that were taken at the meeting and were properly noticed are not void. *Karol v. Bd. of Educ. Trustees*, 122 Ariz. 95, 98, 593 P.2d 649, 652 (1979); Ariz. Att'y Gen. Op. 108-001.

7.7.7 Calls to the Public.

A public body may include a call to the public on a meeting agenda. A.R.S. § 38-431.01(H); *see also* Section 7.10.1 for more discussion on public participation. Should a public body include a call to the public during a public meeting, members of the public body may not discuss or take action on matters raised during the call to the public that are not specifically identified on the agenda. A.R.S. § 38-431.01(H). Individual public body members may, however, respond to criticism made by those who have addressed the public body, ask staff to review a matter, or ask that a matter be put on a future agenda. *Id.*; *see also* Ariz. Att'y Gen. Op. 199-006.

The best practice is to include language similar to the following on the agenda to explain in advance the reason members of the public body cannot respond to topics brought up during the call to the public that are not on the agenda: "Call to the Public: This is the time for the public to comment. Members of the Board may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to A.R.S. § 38-431.01(H), action taken as a result of public comment will be limited to directing staff to study the matter, responding to any

criticism or scheduling the matter for further consideration and decision at a later date."

7.7.8 Current Event Summaries.

The Open Meeting Law allows the chief administrator, presiding officer or a member of a public body to present a brief summary of current events without listing in the agenda the specific matters to be summarized, provided that the summary is listed on the agenda and that the public body does not propose, discuss, deliberate or take legal action at that meeting on any matter in the summary unless the specific matter is properly noticed for legal action. A.R.S. § 38-431.02(K). Thus, the summary of current events consists merely of one of the above-referenced people summarizing recent occurrences without any discussion or feedback from the remainder of the public body. The agenda should specifically list "Summary of Current Events" as an agenda item and identify who will present the summary.

Reports that address matters other than a summary of current events or that are delivered by someone other than a proper official with the public body do not come within the provision authorizing current events summaries and must comply with the agenda requirements of the Open Meeting Law. The only report that can be given without listing the contents of the presentation is the brief summary of current events by the chief administrator, the presiding officer of the Council, or a member under A.R.S. § 38-431.02(K). As to other reports presented to a public body, the agenda must list descriptions of the topics that will be presented and state whether the public body will discuss or take action on such matters. A generic agenda item, such as "Police Department Report," "Fire Department Report," or "Executive Director Report" does not satisfy the requirement that the agenda provide information that is "reasonably necessary to inform the public of the matters to be discussed or decided." A.R.S. § 38-431.02(H). Public bodies should limit the use of the current events summary provision to appropriate situations and should strive to provide as much advance information as possible to the public.

7.7.9 Emergencies.

A public body may discuss, consider, and decide a matter not on the agenda when an actual emergency exists requiring that the body dispense with the advance notice and agenda requirements. A.R.S. § 38-431.02(D). *See* Section 7.6.5 for a discussion of what constitutes an actual emergency.

To use the emergency exception, the public body must do several things. First, the public body must give "such notice as is appropriate to the circumstances." A.R.S. § 38-431.02(D). Next, prior to the emergency discussion, consideration, or decision, the public body must announce in a public meeting the reasons

necessitating the emergency action. A.R.S. § 38-431.02(J). If the emergency discussion or consideration is to take place in an executive session, this public announcement must occur at a public meeting prior to the executive session. *Id.*

After the emergency exception has been used, "the public body must post a public notice within twenty-four hours declaring that an emergency session has been held," which sets forth the same information required in an agenda for a regular meeting. A.R.S. § 38-431.02(D); *see* Form 7.9.

Additionally, the public body must place in the minutes of the meeting a statement that sets forth the reasons necessitating the emergency discussion, consideration, or decision. A.R.S. § 38-431.02(J). In the case of an executive session, this statement will appear twice, once in the minutes of the public meeting where the reasons were publicly announced, and again in the minutes of the executive session where the emergency discussion or consideration took place. *See* Sections 7.8.2(8) and 7.8.3(5).

7.7.10 Changes to the Agenda.

If a public body finds it necessary to change an agenda by modifying the listed matters or adding new ones, a new agenda must be prepared and distributed in the same manner as the original agenda, at least twenty-four hours in advance of the meeting. Ariz. Att'y Gen. Op. 179-45. Changes in the agenda within twenty-four hours of the meeting may be made only in case of emergency. Ariz. Att'y Gen. Op. 179-192; *see* Section 7.7.9. However, the public body is not required to discuss or act on an item that appears on the agenda for the meeting and can vote at the meeting to remove agenda items from consideration without violating the Open Meeting Law.

7.8 Minutes.

Minutes must be taken of all public meetings and executive sessions. A.R.S. § 38-431.01(B)

7.8.1 Form of and Access to the Minutes.

Minutes may be taken in writing or may be recorded by an audio or video recorder. A.R.S. § 38-431.01(B); *see* Forms 7.10, 7.11. Written minutes or a recording of a public meeting must be available for public inspection within three working days after the meeting. A.R.S. § 38-431.01(D). Public bodies concerned about distributing minutes before they have been officially approved at a subsequent meeting should mark the minutes "draft" or "unapproved" and make them available within three working days of the meeting. If the minutes have been recorded by an audio or video recorder, allowing the public to have access to that recording is sufficient. However, if the minutes were taken in shorthand, those minutes must be typed or written out in longhand in order to

comply with this requirement. *See* Form 7.10. The minutes of an executive session are confidential and may not be disclosed except to certain authorized persons. A.R.S. § 38-431.03(B); *see* Section 7.9.4. To ensure confidentiality and avoid inadvertent disclosure, minutes of executive sessions should be stored separately from regular session minutes.

The approved minutes of council meetings for cities or towns with a population of more than 2,500 persons must be posted on the city's website within two working days of their approval. A.R.S. § 38-431.01(E)(2). Minutes must be reduced to a form that is readily accessible to the public. *See* A.R.S. § 38-431.01(D). Additionally, a public body of a city or a town with a population exceeding 2,500 people shall, within three working days after any meeting, post on its website a statement showing legal actions taken by the public body or any recordings made during the meeting. A.R.S. § 38-431.01(E)(1). Subcommittees and advisory committees of such public bodies have ten working days after the meeting to post the recording or statement. A.R.S. § 38-431.01(E)(3), (J). Such posted minutes, statements, and recordings shall remain accessible on the website for at least one year after the meeting. *Id.* § (J). In addition, any recordings and minutes are public records subject to record retention requirements.

7.8.2 Contents of the Minutes of Public Meetings.

The minutes of a public meeting must contain the following information:

1. "The date, time and place of the meeting." A.R.S. § 38-431.01(B)(1).
2. "The members of the public body recorded as either present or absent." *Id.* § (B)(2).
3. "A general description of the matters [discussed or] considered." *Id.* § (B)(3). Minutes must contain information regarding matters considered or discussed at the meeting even though no formal action or vote was taken with respect to the matter. *See id.* § (B)(4). Although the minutes do not need to be a verbatim transcript of the meeting to satisfy this requirement, they must summarize the discussion, including the topics addressed, and identify all speakers who participated in the discussion, including members of the public body.
4. "An accurate description of all legal actions proposed, discussed or taken, including a record of how each member voted." *Id.* Best practice includes roll call votes in most circumstances, as this encourages open government. However, for voice votes, minutes should still include a record of how each member voted, which includes noting abstentions, recusals, or those otherwise not voting. This could be accomplished in several ways. One way of ensuring such a recording would be to follow any voice vote for which no dissent or disagreement was noted with a request that any member who abstained or otherwise did not vote

identify themselves; this would ensure the ability to record in detail how each member voted.

5. "[T]he names of the members who propose each motion[.]" *Id.*

6. "[T]he names of the persons, as given, who make statements or present material to the public body and a [specific] reference to the legal action," (*see* item 4) to which the statement or presentation relates. *Id.*

7. If the discussion in the public session did not adequately disclose the subject matter and specifics of the action taken (such as an action to approve matters on a consent agenda), the minutes of the public meeting at which such action was taken should contain sufficient information to permit the public to investigate further the background or specific facts of the decision. *See* Section 7.7.5; *Karol v. Bd. Of Educ. Trustees*, 122 Ariz. 95, 98, 593 P.2d 649, 652 (1979).

8. If matters not on the agenda were discussed or decided at a meeting because of an actual emergency, the minutes must contain a full description of the nature of the emergency. A.R.S. § 38-431.02(J); *see* Sections 7.6.5 and 7.7.9.

9. If a prior act was ratified, the minutes must contain a copy of the disclosure statement required for ratification. A.R.S. § 38-431.05(B)(3); *see* Section 7.12.2; Form 7.10.

7.8.3 Contents of the Minutes of Executive Sessions.

The minutes of executive sessions must remain confidential, except as provided in Section 7.9.4, and must contain the following information:

1. "The date, time and place of the meeting." A.R.S. § 38-431.01(B)(1), (C).

2. "The members of the public body recorded as either present or absent." *Id.* § (B)(2), (C).

3. "A general description of the matters considered." *Id.* § (B)(3), (C); *see* Section 7.8.2(3). Like the minutes for a public session of the public body, the minutes must summarize the discussion, including the topics addressed, and identify all speakers who participated in the discussion, including members of the public body.

4. An accurate description of all instructions given to attorneys or designated representatives pursuant to A.R.S. § 38-431.03(A)(4), (5) and (7). *See* Sections 7.9.5.4, 7.9.5.5 and 7.9.5.7.

5. A statement of the reasons for emergency consideration of any matters not on the agenda. *See* A.R.S. § 38-431.02(J); Section 7.8.2(8).

6. Such other information as the public body deems appropriate. For example, the public body might record in its minutes that those present were advised that the information discussed in the session and the session minutes are confidential. *See* Form 7.11.

"A party who asserts that a public body violated the open meeting laws has the burden of proving that assertion." *Tanque Verde Unified Sch. Dist. No. 13 of Pima County v. Bernini*, 206 Ariz. 200, 205, 76 P.3d 874, 879 (App. 2003). However, Arizona courts have held that once a complainant alleges facts from which a reasonable inference may be drawn supporting an Open Meeting Law violation, the burden of proof immediately shifts to a public body to prove that an affirmative defense or exception to the Open Meeting Law authorized an allegedly inappropriate executive session. *Fisher v. Maricopa County Stadium Dist.*, 185 Ariz. 116, 122, 912 P.2d 1345, 1351 (App. 1995); *see also Tanque Verde*, 206 Ariz. at 205, 76 P.3d at 881. The best practice is for public bodies to keep an audio or video recording of the executive session or to transcribe the executive session to ensure that they are prepared to meet their burden of proof in the event a complaint is filed.

7.9 Executive Sessions.

A.R.S. Section 38-431.03 contains an exception to the general requirement that all meetings must be open to the public. That exception is for an executive session, which is defined as "a gathering of a quorum of members of a public body from which the public is excluded for one or more of the reasons prescribed in [A.R.S.] § 38-431.03." A.R.S. § 38-431(2); *see* Sections 7.9.5.1 - 7.9.5.7.

While the Open Meeting Law does permit executive sessions for discussing certain matters, it does not require that these discussions take place in executive session. If public disclosure of the public body's discussion is not prohibited by any other statutory provision and government interests are not threatened, a public body may choose to conduct all of its discussions in a public setting.

7.9.1 Deciding to Go Into Executive Session.

Before a public body may go into an executive session, proper notice must be provided. *See* Section 7.6.7 for a discussion of the notice required for an executive session; *see also* section 7.7.9. Once the public body is satisfied that notice requirements have been met, a majority of the members constituting a quorum must vote in a public meeting to hold the executive session. A.R.S. § 38-431.03(A). The motion must state the ground(s) for the executive session so that the public understands why the public body is entering executive session. For example, a member of the public body may make the following motion: "I move to enter executive session for the purpose of receiving legal advice on [agenda topic]." Generally, the vote will be taken immediately before going into executive session.

7.9.2 Executive Session Requirements.

Once the majority of members of a public body votes to hold an executive session, the chairman of the public body should ask the public to leave and to take with them all materials such as briefcases and backpacks to ensure that no recording devices are left in the room. In the alternative, the public body can move to a separate room to conduct the executive session. Only members of the public body and those individuals whose presence is reasonably necessary for the public body to carry out its executive session responsibilities may attend the executive session. A.R.S. § 38-431(2). The chairman should remind all present that the business conducted in executive sessions is confidential pursuant to A.R.S. § 38-431.03(C).

7.9.3 Taking Legal Action.

In an executive session, the public body may discuss and consider only the specific matters authorized by the statute. These specific authorizations are discussed in Sections 7.9.5.1 – 7.9.5.7. Furthermore, the public body may not take a vote or make a final decision in the executive session, but rather must reconvene in a public meeting for purposes of taking the binding vote or making final decisions. *See* A.R.S. § 38-431.03(D). For example, "[a] decision to appeal transcends 'discussion or consultation' and entails a 'commitment' of public funds. Therefore, once [a] Board [has] finished privately discussing the merits of appealing, the open meeting statutes require[] that board members meet in public for the final decision to appeal." *Johnson v. Tempe Elementary Sch. Dist. No. 3 Governing Bd.*, 199 Ariz. 567, 570, 20 P.3d 1148, 1151 (App. 2001). Taking a straw poll or informal or preliminary vote in executive session is unlawful under the Open Meeting Law. *See* A.R.S. § 38-431.03(D). No motion or vote is taken to adjourn the executive session; the chair is responsible for adjourning the executive session and reconvening the public session.

7.9.4 Confidentiality of Executive Sessions.

The minutes of and discussions that take place during an executive session are confidential under A.R.S. § 38-431.03(B) and may not be disclosed to anyone except the following people:

1. Any member of the public body, regardless of whether he or she attended the executive session. A.R.S. § 38-431.03(B)(1); *Picture Rocks Fire Dist. v. Updike*, 145 Ariz. 79, 81, 699 P.2d 1310, 1312 (App. 1985).
2. Any officer, appointee, or employee who was the subject of discussion at an executive session authorized by A.R.S. § 38-431.03(A)(1) may see those portions of the minutes directly pertaining to them. A.R.S. § 38-431.03(B)(2); *see* Section 7.9.4.
3. Staff personnel, to the extent necessary for them to prepare and maintain the minutes of the executive session.

4. The attorney for the public body, to the extent necessary for the attorney to represent the public body.
5. The Auditor General in connection with the lawful performance of its duty to audit the finances or performance of the public body. A.R.S. § 38-431.03(B)(3); Ariz. Att'y Gen. Op. 179-130.
6. The Attorney General or County Attorney when investigating alleged violations of the Open Meeting Law. A.R.S. § 38-431.03(B)(4).
7. The court, for purposes of a confidential inspection where an open meeting violation has been alleged. A.R.S. § 38-431.07(C).

The Open Meeting Law requires a public body to advise all persons attending an executive session that such minutes and information are confidential. A.R.S. § 38-431.03(C). Members of a public body and others attending the executive session must ensure that the information remains confidential. In addition to violating the Open Meeting Law, criminal charges may arise from a release of confidential information from executive session. "A public officer or employee shall not disclose or use, without appropriate authorization, any information that is acquired by the officer or employee in the course of the officer's or employee's official duties and that is declared confidential by law." A.R.S. § 38-504(B). The law designates a knowing or intentional violation of this provision as a Class 6 felony and a reckless or negligent violation as a Class 1 misdemeanor. A.R.S. § 38-510(A). Either type of violation could lead to criminal penalties in addition to forfeiture of office or employment. A.R.S. § 38-510(B).

7.9.5 Authorized Executive Sessions.

The Open Meeting Law identifies seven specific instances in which a public body may discuss matters in an executive session. A.R.S. § 38-431.03(A); *see* Sections 7.9.5.1 – 7.9.5.7. In addition, the Legislature may create specific authority for executive sessions in other statutes. *See* A.R.S. § 38-797.03(B) (authorizing the Arizona State Retirement System Board to hold hearings or to consider administrative law judge decisions involving long term disability benefits in executive session).

Arizona courts have strictly construed the authorized executive session topics because their legislative charge is to "promote openness in government, not to expand exceptions which could be used to obviate the rule." *See Fisher v. Maricopa County Stadium Dist.*, 185 Ariz. 116, 124, 912 P.2d 1345, 1353 (App. 1995). Thus, unless the proposed discussion plainly falls within one of the Open Meeting Law's executive session topics or is specifically authorized by the public body's enabling legislation, discussion should take place only in a public meeting.

7.9.5.1 Personnel Matters.

The discussion or consideration of employment, assignment, appointment, promotion, demotion, salaries, discipline, resignation, or dismissal of a public officer, appointee, or employee of a public body may take place in an executive session. A.R.S. § 38-431.03(A)(1); *City of Flagstaff v. Bleeker*, 123 Ariz. 436, 438 n.2, 600 P.2d 49, 51 n.2 (App. 1979). This authorization for an executive session applies only to discussions concerning specific officers, appointees, and employees. This provision permits discussion in executive session of applicants for employment or appointment even though the applicants may not be currently employed by the public body. *See* Ariz. Att'y Gen. Op. I83-050.

If the public body proposes to discuss a personnel matter in an executive session, and the affected officer, appointee, or employee requests that the discussion occur in a public meeting instead, then these discussions must be conducted in a public meeting and not in an executive session. A.R.S. § 38-431.03(A)(1). Accordingly, the Open Meeting Law requires that an officer, appointee, or employee who is the subject of the discussion in executive session must be given advance written notice of the proposed executive session. *Id.* The notice given to the officer, appointee, or employee must describe the matters to be considered by the public body in a manner sufficient to enable the employee to make the initial decision whether to have the matters discussed in a public meeting. *Id.* In addition, the written notice must be given sufficiently in advance of the proposed meeting, and in no event less than twenty-four hours prior to the meeting, to enable the employee to make the foregoing determination and to prepare an appropriate request for a public meeting. *Id.*; *see* Ariz. Att'y Gen. Op. I79-49. *See also* Form 7.13. There is no emergency exception to the requirement that an affected officer, appointee, or employee receive at least twenty-four hours' notice. *See* Ariz. Att'y Gen. Op. I90-19. However, the public body can discuss personnel matters in a public meeting with less than twenty-four hours' notice if an actual emergency exists. A.R.S. § 38-431.02(D). *See* Sections 7.6.5 and 7.7.9. There is no requirement to provide advance written notice directly to the affected officer, appointee, or employee when the public body proposes to discuss a personnel matter in a public session and not in an executive session.

Although the public body may *permit* the public officer, appointee, or employee who is the subject of discussion to attend the executive session, the Open Meeting Law does not specify whether that person has the right to attend. Whether he attends or not, the public body must make the minutes of the executive session available to the public officer, appointee, or employee who was the subject of discussion in the executive session. A.R.S. § 38-431.03(B)(2).

A public body may consider several persons for appointment to a position or consider several employees for possible disciplinary action. In such cases, the public body may consider the matter in executive session provided all those

being considered are given the required notice. If some, but not all of those given notice request a public meeting, the public body has two options: the public body may limit the public discussion to those persons filing the request and discuss the remaining persons in an executive session; or, because the Open Meeting Law does not require the public body to discuss personnel matters in executive session, the public body may discuss the entire matter in a public meeting.

Public bodies should take care to ensure they limit the scope of executive sessions for personnel discussions to true personnel matters. The Attorney General opined that the Open Meeting Law prohibits public bodies from conducting in executive sessions lengthy information gathering meetings that explore the operation of public programs under the guise of conducting a personnel evaluation. Only the actual evaluation - discussion or consideration of the performance of the employee - may take place in an executive session. *See* Ariz. Att'y Gen. Op. 196-012. A public body wishing to discuss or consider an employee's evaluation in executive session, pursuant to A.R.S. § 38-431.03(A)(1), should adopt a bifurcated process permitting the public body to gather information about public programs at a public meeting, while allowing the public body to enter executive session to discuss or consider the actual evaluation. Ariz. Att'y Gen. Op. 196-012.

Similarly, a public body may not discuss a class of persons in executive session under the Personnel Matters provision. For instance, a public body may not use this executive session provision to discuss a potential reduction in force. Each employee who will be discussed in executive session must get the notice as required by A.R.S. § 38-431.03(A)(1).

7.9.5.2 Confidential Records.

An executive session may be held when the public body considers or discusses "records exempt by law from public inspection." A.R.S. § 38-431.03(A)(2). This specifically includes situations in which the public body receives or discusses "information or testimony that is specifically required to be maintained as confidential by state or federal law." *Id.* This provision allows the use of an executive session whenever the public body intends to discuss or consider matters contained in records that are confidential by law. *See* Ariz. Att'y Gen. Ops. 190-058, 187-131. However, when confidential matters can be adequately safeguarded, the discussion may take place during a public meeting. *Cf.* Ariz. Att'y Gen. Op. 187-038 (medical records).

The record under consideration need not be expressly made confidential by statute, but rather may fall within the category of confidential records discussed in Chapter 6 of this handbook. For example, to preserve confidentiality, preliminary audit reports of state agencies prepared by the Auditor General are

confidential and should be discussed by the public body in executive session. Ariz. Att'y Gen. Op. I80-035. Similarly, complaints against licensees investigated by a public body may be discussed in executive session. Ariz. Att'y Gen. Op. I83-006. In 2000, the Legislature revised the statute to allow public bodies to take testimony in executive sessions in certain situations. Public bodies should ensure that state or federal law requires that the public body maintain confidentiality of the information it receives before convening an executive session under A.R.S. § 38-431.03(A)(2). Written materials, however, do not become confidential merely because they are discussed in executive session.

7.9.5.3 Legal Advice.

A public body may also go into executive session for the purposes of "discussion or consultation for legal advice with the attorney or attorneys of the public body." A.R.S. § 38-431.03(A)(3). For this exemption to apply, the attorney giving the legal advice must be the attorney for the public body. *Id.* For purposes of this discussion, the "attorney for the public body" means a licensed attorney representing the public body, whether that attorney is a full-time employee of the body, the attorney general or county, city, or town attorney responsible for representing the public body, an attorney hired on contract, or an attorney provided by an insurance carrier to represent the public body.

This provision authorizes consultations between a public body and its attorney. Accordingly, the only persons allowed to attend this executive session are the members of the public body, the public body's attorney, and those employees and agents of both whose presence is necessary to obtain the legal advice. *See* A.R.S. § 38-431(2). An attorney may attend in person or through other telecommunications technology, such as by telephone or video-conferencing. The mere presence of an attorney of the public body in the meeting room is not sufficient to justify the use of this executive session provision. *City of Prescott v. Town of Chino Valley*, 166 Ariz. 480, 485, 803 P.2d 891, 896 (1990). This provision can only be used for the purpose of obtaining "legal advice," which involves the exchange of communications between lawyer and client. Once the public body obtains the legal advice, the public body must go back into public session unless another executive session provision applies and has been identified in the notice and motion for executive session. *See Id.* at 486, 803 P.2d at 897. Discussion between the members of the public body about what action should be taken is beyond the realm of legal advice, and such discussions must be held in public session.

7.9.5.4 Litigation, Contract Negotiations, and Settlement Discussions.

A public body may hold an executive session for the purpose of "[d]iscussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding

contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation." A.R.S. § 38-431.03(A)(4). This provision allows consideration and instruction only—it does *not* allow a public body to conduct contract negotiations or settlement discussions in an executive session.

This provision is unique in that it permits a public body to give its attorneys instructions on how they should proceed in contract negotiations, pending or contemplated litigation involving the public body, and settlement discussions. In these limited situations, the public body must be able to discuss and arrive at some consensus on its position before it instructs its legal counsel. Executive session minutes must contain an accurate description of all instructions given. A.R.S. § 38-431.01(C). For example, the public body might authorize its attorney to settle a lawsuit on the most favorable terms possible up to a certain amount. Of course, if the attorney were to obtain an agreed settlement, the public body must formally approve it at a public meeting.

If legal action is necessary by the public body before its representative can take the directed action, the public body must vote on the matter in public session and cannot do so in executive session. *See Johnson v. Tempe Elementary School Dist. No. 3 Governing Bd.*, 199 Ariz. 567, 570, 20 P.3d 1148, 1151 (App. 2000) (concluding that Board was required to vote in public session to authorize attorney to file notice of appeal). In order to preserve the confidentiality afforded by the Open Meeting Law, the best practice is for the public body, upon return to the open session, to vote to authorize its attorney to “proceed as instructed in the executive session.” The public body should provide more information when it is possible to do so without risking the confidentiality of the matter (such as instructing an attorney to file an appeal). For example, the public body could move for its attorney “to file a notice of appeal on the grounds specified in executive session” or “to make an offer for settlement of the claim in Case X within the parameters specified in executive session.” The public body should consult with legal counsel to determine the specificity required in such motions.

Like the provision that allows legal advice to be given in executive session, this provision requires that the attorney of the public body be present at the executive session. The attorney may attend in person or through other telecommunications technology, such as by telephone or video-conferencing. Similarly, the discussion in Section 7.9.5.3 of the definition of “attorney for the public body” also applies to this Section.

7.9.5.5 Discussions with Designated Representatives Regarding Salary Negotiations.

A public body may hold an executive session for the purpose of "[d]iscussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations with employee organizations regarding the salaries, salary schedules or compensation paid in the form of fringe benefits of employees of the public body." A.R.S. § 38-431.03(A)(5). This provision permits a public body, in executive session, to consult and discuss with its representatives its position on negotiating salaries or compensation paid in the form of fringe benefits and to instruct representatives on how they should deal with the employee organizations. It does not authorize an executive session for purposes of meeting with the employees' representative. If the public body or any standing, special, or advisory committee or subcommittee of the public body conducts the negotiations, those negotiations must be conducted in a public meeting.

This provision also allows the public body to "instruct" its representatives. The discussion in Section 7.9.5.4 of the practice of confirming instructions in public session and the minute-taking requirements applies with equal force to this Section.

7.9.5.6 International, Interstate, and Tribal Negotiations.

A public body may go into executive session for the purpose of "[d]iscussion, consultation, or consideration for international and interstate negotiations." A.R.S. § 38-431.03(A)(6). This provision does not apply to meetings at which the public body receives recommendations from representatives of federal agencies. Ariz. Att'y Gen. Op. I80-159.

This provision also permits a city or town, or its designated representatives, to enter into executive session with "members of a tribal council, or its designated representatives, of an Indian reservation located within or adjacent to the city or town." A.R.S. § 38-431.03(A)(6). This is the only type of executive session in which negotiations with another party can take place.

7.9.5.7 Purchase, Sale or Lease of Real Property.

A public body may meet in executive session to discuss and consult with its representatives concerning negotiations for the purchase, sale, or lease of real property. A.R.S. § 38-431.03(A)(7). This provision does not authorize an executive session for the purpose of meeting with representatives of the party with whom the public body is negotiating. For example, a school district violates open meeting laws by choosing a site for a proposed high school in executive session. *Tanque Verde Unified Sch. Dist. No. 13 of Pima County v. Bernini*, 206 Ariz. 200, 208, 76 P.3d 874, 882 (App. 2003). This provision permits the public

body to instruct its representatives regarding the purchase, sale or lease of real property. For example, the public body can authorize its representative to negotiate up to a certain amount. Of course, the final contract must be approved by the public body in a public meeting.

This provision also allows the public body to "instruct" its representatives. The discussion in Section 7.9.5.4 of the practice of confirming instructions in public session and the minute-taking requirements also applies to this Section.

7.10 Public Participation and Access to Meetings.

7.10.1 Public Participation.

While the public must be allowed to attend and listen to deliberations and proceedings taking place in all public meetings, A.R.S. § 38-431.01(A), the Open Meeting Law does not establish a right for the public to participate in the discussion or in the ultimate decision of the public body. Ariz. Att'y Gen. Op. 78-1. Other statutes may, however, require public participation or public hearings. For example, before promulgating rules, state agencies must permit public participation in the rule making process, including the opportunity to present oral or written statements on the proposed rule. *See* Chapter 11. *See also* Section 7.7.7 for a discussion of the authorization (but not requirement) for public bodies to use an open call to the public.

The Open Meeting Law does not prevent a public body from requiring persons who intend to speak at the meeting to sign a register so as to permit the public body to comply with the minute-taking requirements. *See* Section 7.8.2(6).

7.10.2 Public Access.

The public body must provide public access to public meetings. *See* A.R.S. § 38-431.01(A). This requirement is not met if the public body uses any procedure or device that obstructs or inhibits public attendance at public meetings, such as holding the meeting in a geographically isolated location, in a room too small to accommodate the reasonably anticipated number of observers, in a place to which the public does not have access, such as private clubs, or at an unreasonable time. Relatedly, the public body must ensure that the public can observe and listen to the full contours of public meetings. For example, a public meeting in which the public cannot hear discussions by members of the public body because of the low volume of the microphone or speaker systems would likely violate the Open Meeting Law.

"All or any part of a public meeting . . . may be recorded by any person in attendance by means of a tape recorder or camera or other means of sonic reproduction." A.R.S. § 38-431.01(F). A public body may prohibit or restrict

such recordings only if they actively interfere with the conduct of the meeting. *Id.*

In addition to complying with the Open Meeting Law, the notice and accommodations should conform with the provisions of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12101 - 12213. *See* Section 15.27; *see also* section 7.6.3.2 (notice requirements relating to reasonable accommodations).

7.10.3 Remote Conferencing.

If members of a public body are unable to be present in person at a public meeting, they may participate by telephone or video or internet conference if the practice is not prohibited by statutes applicable to meetings of the public body. Ariz. Att'y Gen. Ops. I08-008, I91-033, I83-135. In addition, nothing prohibits the public body from allowing people to attend meetings or to address the public body by telephone or through other telecommunications technology. *See* A.R.S. § 38-431(4). In order to comply with the requirements of the Open Meeting Law, the members of the public body and the public must be able to hear the member of the public body that is attending by telephone or other technological device. The public body must also ensure that the members attending by telephone or other technological device can hear any discussion from the public body and other persons making statements to the body.

A public body should consider the following guidelines to minimize any difficulties arising from remote conferencing.

1. Notify the public body and the public by including a statement on the notice and the agenda that one or more members of the public body may participate by telephonic, video or internet communications. In the appropriate notice, insert the following after the first sentence: "Members of the [name of public body] may attend either in person or by telephone, video or internet conferencing."
2. Ensure that the public meeting place where the public body normally meets has facilities that permit the public to observe and hear all telephone, video or online communications.
3. Develop procedures to clearly identify members that are participating by telephonic, video or internet communications.
4. Identify in the minutes of the meeting the members who participated by telephonic or video communications.

7.11 Quorum.

Arizona statutes generally define a quorum as a majority of the members of a board or commission. A.R.S. § 1-216(B). In applying the Open Meeting Law, this definition applies in the absence of a more specific definition.

7.12 Ratification.

A public body may ratify action previously taken in violation of the Open Meeting Law. *See* A.R.S. § 38-431.05(B). Ratification is appropriate when the public body needs to retroactively validate a prior act in order to preserve the earlier effective date of the action. For example, a public body may be required by law to approve its budget by a certain date. If the public body discovered after the statutory deadline that its earlier approval violated the Open Meeting Law, it could face serious legal problems. Even if the body met quickly to properly approve the budget, the approval would not have been made prior to the statutory deadline. Accordingly, the 1982 amendments permit the public body to meet and approve retroactively the action previously taken—that is, to ratify its prior action.

7.12.1 Generally.

Ratification must take place “within thirty days after discovery of the violation or after such discovery should have been made by the exercise of reasonable diligence.” A.R.S. § 38-431.05(B)(1). This can be triggered in different ways. A judicial determination that the public body took legal action in violation of public meeting laws triggers the thirty-day period. *Tanque Verde Unified Sch. Dist. No. 13 of Pima County v. Bernini*, 206 Ariz. 200, 208-210, 76 P.3d 874, 882-884 (App. 2003). However, it is not triggered by letters from attorneys notifying the board of their intent to challenge the legal action or by filing a lawsuit. *Id.* at 209, 76 P.3d at 883.

Ratification merely validates the prior action; it does not eliminate liability of the public body or others for sanctions under the Open Meeting Law, such as civil penalties and attorney's fees. Moreover, ratification under the Open Meeting Law may well fail to resolve other notice failure. For example, ratification under the Open Meeting Law may not resolve the specific notice requirements of a zoning or taxation statute.

A public body can take the same legal action at a subsequent properly noticed public meeting without following the ratification procedure, but the action will not have the earlier effective date. *See Cooper v. Arizona Western Coll. Dist. Governing Bd.*, 125 Ariz. 463, 468-469, 610 P.2d 465, 470-71 (App. 1980) (“We find no provision in the Arizona statutes relating to public meetings which precludes a public body from adopting at a subsequent public meeting action which was legally ineffective from a previous meeting of the public body.”)

7.12.2 Procedure for Ratification.

The Open Meeting Law provides the following detailed procedure for ratification under A.R.S. § 38-431.05(B):

1. The decision to ratify must take place at a public meeting held in accordance with the Open Meeting Law.
2. Ratification must take place within thirty days after discovery of the violation or after such discovery should have been made by the exercise of reasonable diligence.
3. The public notice of the meeting at which ratification is to take place, in addition to complying with the other requirements of the Open Meeting Law, *see* Sections 7.6 and 7.7, must include (a) a description of the action to be ratified, (b) a clear statement that the public body proposes to ratify a prior action, and (c) information on how the public may obtain a written description of the action to be ratified. *See* Form 7.12.
4. In addition to the notice and agenda of the meeting, the public body must make available to the public a detailed written description of the action to be ratified and a description of all prior deliberations, consultations, and decisions by members of the public body related to the action to be ratified.
5. The description required under paragraph 4 must be included as part of the minutes of the meeting at which the decision to ratify was made.
6. The public notice, agenda, and written description discussed in paragraphs 3 and 4 must be made available to the public at least seventy-two hours prior to the public meeting.

7.13 Sanctions for Violations of the Open Meeting Law.

7.13.1 Nullification.

All legal action transacted by any public body during a meeting held in violation of any provision of the Open Meeting Law is null and void unless subsequently ratified. A.R.S. § 38-431.05(A). The procedures for ratification are described in Section 7.12.2. However, the Open Meeting Law does not render null and void all legal action taken at a meeting at which a violation occurs with respect to a single improperly noticed agenda item. *Ariz. Att'y Gen. Op. I08-001*.

The Arizona Supreme Court, however, has held that legal actions taken in violation of the Open Meeting Law are voidable at the discretion of the court. *Karol v. Bd. Of Educ. Trustees*, 122 Ariz. 95, 97, 593 P.2d 649, 651 (1979). In *Karol*, the court held that "a technical violation having no demonstrated prejudicial effect on the complaining party does not nullify all the business in a public meeting when to conclude otherwise would be inequitable, so long as the meeting complies with the intent of the legislature." *Id.* at 98, 593 P.2d at 652. This decision imposes a substantial compliance test and requires a weighing of the equities before a court will declare an action void. The decision, however, preceded the 1982 amendment to the Open Meeting Law which specifically authorized a procedure for ratification. It remains to be seen whether this change

will cause the court to follow the literal language of the Open Meeting Law. Nevertheless, serious consequences flow from having an action of a public body declared void, and the public body should take every precaution to avoid even technical violations of the Open Meeting Law.

In some cases, the public body may have discussed a matter at an unlawful meeting, but thereafter met in a lawful open meeting at which it took a formal vote as its "final action." The Arizona Court of Appeals has held that the subsequent final action taken at a lawful meeting is not void. *Cooper v. Arizona Western Coll. Dist. Governing Bd.*, 125 Ariz. 463, 468-469, 610 P.2d 465, 470-71 (App. 1980); *Valencia v. Cota*, 126 Ariz. 555, 617 P.2d 63 (App. 1980). The public body taking the final action at the subsequent lawful meeting should make available at that time the substance of all discussions that took place at the earlier unlawful meeting. If the public body wishes to preserve the effective date of the earlier action rather than simply redecide the matter, it must go through the ratification process. See Section 7.12.

7.13.2 Investigation and Enforcement.

The 2000 Legislature enacted substantial revisions to the Open Meeting Law, including extensive changes to the investigation and enforcement provisions. The Attorney General and County Attorneys are authorized to investigate alleged Open Meeting Law violations and enforce the Open Meeting Law. A.R.S. § 38-431.06.

The Open Meeting Law specifically provides that the Attorney General and County Attorneys shall have access to executive session minutes when they are investigating alleged violations of the Open Meeting Law. A.R.S. § 38-431.03(B)(4). The Open Meeting Law also provides that disclosure of executive session information (such as disclosure to the Attorney General) does not constitute a waiver of the attorney-client privilege and directs courts reviewing executive session information to protect privileged information. *Id.* § (F).

The investigative authority of the Attorney General and County Attorneys was strengthened by the 2000 Legislature. The Attorney General and County Attorneys may issue written investigative demands to any person, administer oaths or affirmations to any person for the purpose of taking testimony, conduct examinations under oath, examine accounts, books, computers, documents, minutes, papers and recordings, and require people to file written statements, under oath, of all the facts and circumstances requested by the Attorney General or County Attorney. A.R.S. § 38-431.06(B). If a person fails to comply with a civil investigative demand, the Attorney General or County Attorney may seek enforcement of the demand in Superior Court.

“Any person affected by an alleged violation of [the Open Meeting Law], the Attorney General or the County Attorney for the county in which the alleged violation ... occurred,” may file suit in superior court against a public body as a whole to require compliance with or prevent violations of the Open Meeting Law or to determine whether the law is applicable to certain matters or legal actions of the public body. A.R.S. § 38-431.07.

Additionally, when the provisions of the Open Meeting Law have been violated, a court of competent jurisdiction may issue a writ of mandamus requiring a meeting to be open to the public. A.R.S. § 38-431.04. A writ of mandamus is an order of the court compelling a public officer to comply with certain mandatory responsibilities imposed by law.

In 2007, in an effort to increase government awareness and provide the citizens of Arizona an effective and efficient means to get answers and resolve public access disputes, legislation expanded the Arizona Ombudsman-Citizens’ Aide Office to provide free services to citizens and public officials regarding public access issues. The duties of the Ombudsman include: preparing materials on public access laws, training public officials, coaching, assisting and educating citizens, investigating complaints, requesting testimony or evidence, conducting hearings, making recommendations, and reporting misconduct. A.R.S. § 41-1376.01.

7.13.3 Civil Penalties.

In addition to suits brought in order to require compliance with, prevent violations of, or determine the applicability of the Open Meeting Law, “[t]he attorney general may also commence a suit . . . against an individual member of a public body for a knowing violation of [the Open Meeting Law].” A.R.S. § 38-431.07(A). In such a suit, the court may impose a civil penalty not exceeding five hundred dollars for a second offense, and not exceeding two thousand five hundred dollars for third or subsequent offenses against each person who knowingly violates the Open Meeting Law. *Id.* This penalty can also be assessed against a person who knowingly aids, agrees to aid or attempts to aid in violating the Open Meeting Law. *Id.* This penalty is assessed against the individual and not the public body, and the public body may not pay the penalty on behalf of, or otherwise reimburse, the person assessed. *Id.* If a “person who might otherwise be liable under [the Open Meeting Law] objected to the action of the public body and the objection is noted on a public record, the court may choose not to impose a civil penalty on that person.” *Id.*

7.13.4 Attorney's Fees.

The court may also order payment of reasonable attorney's fees to a successful plaintiff in an enforcement action brought under the Open Meeting Law. A.R.S.

§ 38-431.07(A). Normally those fees will be paid by the state or political subdivision of which the public body is a part or to which it reports. *Id.* However, if the court determines that a public officer knowingly violated the Open Meeting Law "with intent to deprive the public of information," the court must assess all of the costs and attorney's fees awarded to the plaintiff against that public officer or the person who knowingly aided, agreed to aid or attempted to aid the public officer in violating the Open Meeting Law. *Id.* As in the case of an award of civil penalties, the public body may not pay such an award of attorney's fees assessed against the public officer individually. *See id.*

7.13.5 Expenditure for Legal Services by Public Body Relating to the Open Meeting Law.

A public body may not retain counsel or expend monies for legal services to defend an action brought under the Open Meeting Law unless the public body has legal authority to make such an expenditure pursuant to other provisions of law and it approves the expenditure at a properly noticed open meeting prior to incurring the obligation. A.R.S. § 38-431.07(B).

7.13.6 Removal From Office.

If the court determines that a public officer knowingly violated the Open Meeting Law "with intent to deprive the public of information," the court may remove the public officer from office. A.R.S. § 38-431.07(A).

Part III – Frequently Asked Questions

1.	What is the open meeting law?	56
2.	Who must comply with the open meeting law?	56
3.	What actions are required to occur in public at open meetings? ..	56
4.	Do committees and subcommittees have to comply with the open meeting law?.....	56
5.	When is it appropriate for a public body to hold an emergency meeting?.....	57
6.	What must be included on an agenda?	57
7.	Where must a public body post its meeting notices?	57
8.	Where must a public body post an agenda?	58
9.	Does the public have a right to speak during a meeting?	58
10.	Is the public body required to have a call to the public?	58
11.	Is the public body required to answer questions from the public during an open meeting?	58
12.	What is required to be included in the minutes of an open session?	59
13.	Is the public body required to approve the minutes (or a recording)?	59
14.	Is a public body required to post its meeting minutes (or a recording)?	59
15.	Can board members discuss their views with the public outside of an open meeting?	60
16.	If a public body violates the open meeting law, how does the public body fix the error?	60
17.	What are the penalties for violating the open meeting law?	60
18.	Are private, non-profit entities like those that are tax-exempt under section 501(c)(3) of the Internal Revenue Code subject to the open meeting law?	60
19.	May a public body conduct its meetings purely through technological means and/or limit public attendance to remote, technological access?	61

Frequently Asked Questions

1. What is the open meeting law?

The open meeting law is a set of statutes that seeks to ensure government transparency and accountability by opening government collective decision-making to the public. The open meeting does not include everything that can and cannot be done in a meeting.

2. Who must comply with the open meeting law?

Public bodies must comply with the open meeting law. A.R.S. § 38-431.01(A). Public bodies are essentially governmental, multi-member, decision-making entities. “Public body” is defined in statute as

the legislature, all boards and commissions of this state or political subdivisions, all multimember governing bodies of departments, agencies, institutions and instrumentalities of this state or political subdivisions, including without limitation all corporations and other instrumentalities whose boards of directors are appointed or elected by this state or political subdivision. Public body includes all quasi-judicial bodies and all standing, special or advisory committees or subcommittees of, or appointed by, the public body. Public body includes all commissions and other public entities established by the Arizona Constitution or by way of ballot initiative, including the independent redistricting commission, and this article applies except and only to the extent that specific constitutional provisions supersede this article.

A.R.S. § 38-431(6).

3. What actions are required to occur in public at open meetings?

All legal actions of a public body must occur at open meetings. A.R.S. § 38-431.01(A). A legal action, although it sounds formal or legalistic, is simply any collective decision made by a public body. Legal action is specifically defined as “a collective decision, commitment or promise made by a public body pursuant to the constitution, the public body's charter, bylaws or specified scope of appointment and the laws of this state.” A.R.S. § 38-431(3).

4. Do committees and subcommittees have to comply with the open meeting law?

Yes, with one exception. Public bodies must comply with the open meeting law. A.R.S. § 38-431.01(A). The definition of public body includes “all standing, special or advisory committees or subcommittees of, or appointed by, the public body.” A.R.S. § 38-431(6). Advisory committee and subcommittee are defined to mean

any entity, however designated, that is officially established, on motion and order of a public body or by the presiding officer of the public body, and whose members have been appointed for the specific purpose of making a recommendation concerning a decision to be made or considered or a course of conduct to be taken or considered by the public body.

A.R.S. § 38-431(2).

The only exception is that advisory committees or subcommittees with only three members, only one of whom is a member of any public body, may discuss or deliberate outside a public meeting. A.R.S. § 38-431.08(A)(5).

5. When is it appropriate for a public body to hold an emergency meeting?

A public body may hold an emergency meeting when there exists an “actual emergency.” A.R.S. § 38-431.02(D). “Actual emergency” is not defined in statute. The Attorney General has said that “[a]n actual emergency exists when, due to unforeseen circumstances, immediate action is necessary to avoid some serious consequence that would result from waiting until the required notice could be given.” Section 7.6.5 of the Attorney General’s Agency Handbook.

6. What must be included on an agenda?

An agenda must include “the specific matters to be discussed, considered or decided at the meeting.” A.R.S. § 38-431.02(H). Further, agendas should “contain such information as is reasonably necessary to inform the public of the matters to be discussed or decided.” A.R.S. § 38-431.09(A).

The agenda (or particular portions of an agenda) for an executive session must include “the provision of law authorizing the executive session.” A.R.S. § 38-431.02(B). It need not be as specific as regular agenda items; however, it must “provide more than just a recital of the statutory provisions authorizing the executive session.” A.R.S. § 38-431.02(I).

7. Where must a public body post its meeting notices?

It depends on what type of public body. *See* A.R.S. § 38-431.02. Public bodies for public bodies of the State (and charter school governing bodies), counties, and school districts must have a statement on the entity’s website explaining where all meeting notices will be posted. The entity must then publish notice for each meeting on its website, publish notice in each location indicated in the web statement, and provide “additional notice as is reasonable and practicable.”

Public bodies for municipalities have option to post the statement and individual meeting notices on their website or a website “of an association of cities and towns.”

Public bodies for special taxing districts are not required (but are recommended by the Ombudsman’s office) to post the statement and individual meeting notices online. If the entity chooses to forgo posting on its website, it must “file a statement with the clerk of the board of supervisors stating where all public notices of their meetings will be posted and shall give additional public notice as is reasonable and practicable as to all meetings.”

8. Where must a public body post an agenda?

The open meeting law does not specifically require a public body to publicly post its agenda. Instead, the open meeting law requires that meeting notices “include an agenda of the matters to be discussed or decided at the meeting or information on how the public may obtain a copy of such an agenda.” A.R.S. § 38-431.02(G). We strongly suggest that public bodies either combine meeting notices with meeting agendas or post meeting agendas on their websites.

9. Does the public have a right to speak during a meeting?

The public does not have a right to speak or disrupt the meeting; however, the public body may allow comments from the public via a call to the public. *See* A.R.S. § 38-431.01(I) and *see* question 10.

10. Is the public body required to offer a call to the public?

A call to the public is not mandatory, but the public body may put a call to the public on their agenda. *See* A.R.S. § 38-431.01(I).

11. Is the public body required to answer questions from the public during an open meeting?

The public body may answer questions from the public, if the item is properly listed on the agenda, but the open meeting law does not require it to do so.

12. What is required to be included in the minutes of an open session?

The minutes of an open session must include the date, time and place of the meeting, members present and absent, a general description of the matters to be considered, an accurate description of the legal action, the names of members who propose each motion, the names of people making statements or presenting material to the public body and a reference to the legal action about which they made statements or presented material. A.R.S. § 38-431.01(C).

13. Is the public body required to approve the minutes (or a recording)?

No. The open meeting law does not require a public body to approve meeting minutes.

14. Is a public body required to post its meeting minutes (or a recording)?

No. The open meeting law does not require a public body to post its minutes publicly; however, it does require the public body to make minutes (or a recording) "available for public inspection three working days after the meeting" unless an exception applies. A.R.S. § 38-431.01(E). Public bodies for cities and towns with populations of over 2,500, however, do have web posting requirements.

A public body for a city or town with a population of over 2,500 (excluding subcommittees and advisory committees) must post on its website, if applicable, "a statement describing the legal actions taken by the public body" or a recording within three working days after the meeting. A.R.S. § 38-431.01(F)(1)

Additionally, a public body for a city or town with a population of over 2,500 must post on its website, if applicable, approved minutes of city or town council meetings within two working days following the approval of the minutes. A.R.S. § 38-431.01(F)(2)

Lastly, a subcommittee or advisory committee for a city or town with a population of over 2,500 must post on its website, if applicable, "a statement describing legal action" or a recording within ten working days after the meeting. A.R.S. § 38-431.01(F)(3)

15. Can board members discuss their views with the public outside of an open meeting?

Yes. Members of a public body may discuss their views with members of the public so long as the communication is not principally directed at or directly given to other board members and there is no plan to engage in collective deliberation to take legal action. A.R.S. §38-431.09(B); Op.Atty.Gen. No. I07-013.

16. If a public body violates the open meeting law, how does the public body fix the error?

If the public body violates the open meeting law, it can ratify that legal action within 30 days of discovering the violation by voting to ratify in a public meeting. A.R.S. § 38-431.05.

17. What are the penalties for violating the open meeting law?

Knowing violations of the open meeting law may result in a civil penalty of up to \$500 for the second violation and up to \$2,500 for each successive violation. The court may also order appropriate equitable relief. These penalties are imposed against individual members of a public body. The public body cannot pay the penalty or reimburse the member for it. A court may also, depending on the member's intent, assess a member of a public body with "all of the costs and attorney fees" and remove the member from office. A.R.S. § 38-431.07(A).

18. Are private, non-profit entities like those that are tax-exempt under section 501(c)(3) of the Internal Revenue Code subject to the open meeting law?

The open meeting law generally does not apply to non-profit entities unless they are governmental in nature. If a non-profit entity is entirely private in nature (I.e., it was not directly created by a government action, it cannot tax members of the public, government officials do not directly control it, etc.), it is not subject to the open meeting law. Entities that are tax-exempt under section 501(c)(3) of the Internal Revenue are generally not subject to the open meeting law.

19. May a public body conduct its meetings purely through technological means and/or limit public attendance to remote, technological access?

A public body may conduct meetings through technological means as long as it complies with the various provisions of the open meeting law. The open meeting law defines “meeting,” in part, as “the gathering, in person or *through technological devices*, of a quorum of the members of a public body. . . .” A.R.S. § 38-431(4)(a) (emphasis added). This language, and the lack of any explicit prohibition against it, imply that the open meeting law permits meeting through technological means.

The open meeting law requires that “all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings” that take place at a meeting of a public body. A.R.S. § 38-431.01(A). The open meeting law does not define “attend.” As the purpose of the open meeting law is to allow members of the public to witness in real time the discussions and decision-making of a public body, a public body can make a reasonable argument that it complies with the attendance requirement by providing remote, technological access meetings, such as by live-streaming video of a meeting online.

In 2020, the Attorney General also addressed the issue and concluded “the OML generally permits public bodies to conduct remote meetings through technological means,” provided that the public body complies with the open meeting law’s notice and access requirements. Op.Atty.Gen. No. I20-002. The Attorney General also seemed to conclude that the open meeting law’s requirement that the public be able to attend is satisfied by enabling the public to hear what is said by members of the public body through technological means. Id.

Part IV – Legal Authority

Public Bodies	63
Executive Sessions.....	64
Legal Action	65
Meetings	66
Substantial Compliance	67
Electronic Communications.....	67

Legal Authority

Public Bodies

The provisions of the Open Meeting Law apply to all public bodies. A public body is defined in A.R.S. § 38-431(6).

For purposes of open meeting law, community hospital association was not “institution of the state or a political subdivision” thereof; association was not creation of law itself, but rather creation of group of private individuals acting together as authorized by statutes governing creation of private nonprofit corporations. Prescott Newspapers, Inc. v. Yavapai Community Hosp. Ass'n (App. Div.1 1989) 163 Ariz. 33, 785 P.2d 1221, review denied.

Under the definition set forth in A.R.S. § 38-431(6), the Board of Trustees appointed to administer the Northern Arizona Public Employees Benefit Trust constitutes a multimember governing body of an instrumentality of one or more political subdivisions and must comply with the requirements of the Arizona open meeting law. Ariz. Att’y Gen. Op. I07-001.

Corporate boards of charter school operators generally are not “public bodies” subject to Arizona's open meeting law; however, because the open meeting law applies to charter school governing boards, if a quorum of the charter school governing board discusses charter school business at a meeting of the corporate board of the charter school operator, the open meeting law applies to that discussion. Ariz. Att’y Gen. Op. I00-009.

Advisory committees created by the Governor pursuant to executive order are not public bodies and are not subject to the open meeting law. A.R.S. §§ 38-431 and 41-106. Ariz. Att’y Gen. Op. I92-007.

Community hospital association subject to the open meeting law despite being “a non-profit private corporation.” “Because the Association's board is selected by the District's residents, we believe that it constitutes a corporation ‘whose [board] of directors [is] appointed ... by the political subdivision’ within the definition of a public body subject to the Open Meeting Law.” Ariz. Att’y Gen. Op. I84-091.

Where tenured faculty member has a hearing pursuant to personnel grievance proceedings in the state university system, the open meeting law would apply because, if the university president's recommendation is appealed, the staff grievance and appeals committee could be construed as an advisory committee

to the board of regents, a multi-member public body subject to the open meeting law. Ariz. Att’y Gen. Op. I84-077.

The employees benefit trust, which is governed by a board of trustees appointed by the governing board of the Mammoth/San Manuel Unified School District, is a public body and therefore is subject to provisions of the open meeting law. Ariz. Att’y Gen. Op. I83-018.

Any scheme or device designed to circumvent the purposes of the Open Meeting Law would be subject to close scrutiny and would constitute a violation subjecting the governing body and participating members to the sanctions provided for in the open meeting law. Ariz. Att’y Gen. Op. I83-025.

Whether a meeting is in violation of the open meeting law depends upon the substance of the matters discussed, not the label given to the meeting or the location of the meeting. Ariz. Att’y Gen. Op. I79-4.

The open meeting law requires that all proceedings before the tribunals, including their deliberations, must be conducted in an open meeting and that any member of the public, including “interested parties” may attend. Ariz. Att’y Gen. Op. I78-245.

The open meeting law applies only to multi-member bodies; i.e., bodies containing three or more members, and therefore, single heads of agencies, during course of conducting their official business in such capacity, are not “governing bodies” capable of taking “legal action” and are not, therefore, subject to the open meeting law. An agency which is under the direction of a single person is not entirely exempt from the open meeting law, and it is likely that the agencies will contain advisory councils or other bodies which fall within the act. Ariz. Att’y Gen. Op. 75-7.

The open meeting law applies to a board appointed by governing bodies of various political subdivisions to administer employee benefits program. Ariz. Att’y Gen. Op. I07-001.

Executive Sessions

Arizona courts have strictly construed the authorized executive session topics because their legislative charge is to "promote openness in government, not to expand exceptions which could be used to obviate the rule." See Fisher v. Maricopa County Stadium Dist., 185 Ariz. 116, 124, 912 P.2d 1345, 1353 (App. 1995).

Executive sessions for discussion or consideration of personnel matters, including salaries, with respect to a public officer, appointee, or employee of any public body is limited to discussions relating to individual employees, not with respect to all or a class of employees, and, therefore, is not applicable to budget discussions. Ariz. Att’y Gen. Op. I81-058.

Evaluation and review of the superintendent's job performance was a personnel matter that school board could elect to discuss in executive session unless the superintendent requested the discussion occur at an open meeting; the decision to hold an executive session must be made on a case-by-case basis by means of a majority vote. Ariz. Att’y Gen. Op. I81-090.

The open meeting law is applicable to school board committees regardless of whether such committees are composed of school board members, and executive sessions of such committees are permissible only for the limited purposes enumerated in A.R.S. § 38-431.03. Ariz. Att’y Gen. Op. I80-202.

School board violated open meeting law when, in executive session, it decided to appeal the trial court's ruling in an employment case, as the decision to appeal was a “legal action,” in that it transcended discussion or consultation and entailed a commitment of public funds. Johnson v. Tempe Elementary School Dist. No. 3 Governing Bd. (App. Div.1 2000) 199 Ariz. 567, 20 P.3d 1148, as amended, review denied. *See also* Desert Mountain Energy Corp. v. City of Flagstaff (App. Div.1 2025) 566 P.3d 333.

If a public body makes a decision during executive session that should have been made in public, the public body must ratify that decision within 30 days of when the error was discovered or should have been discovered. Constructive knowledge of an error is sufficient to trigger the 30-day time limit. The public body does not need to have actual knowledge of the error. Desert Mountain Energy Corp. v. City of Flagstaff (App. Div.1 2025) 566 P.3d 333.

Legal Action

School board violated open meeting law when, in executive session, it decided to appeal trial court's ruling in an employment case, as decision to appeal was a “legal action,” in that it transcended discussion or consultation and entailed a commitment of public funds. Johnson v. Tempe Elementary School Dist. No. 3 Governing Bd. (App. Div.1 2000) 199 Ariz. 567, 20 P.3d 1148, as amended, review denied.

Deliberations by a majority of a public body in respect to a matter that foreseeably could come to a vote by that body constitutes “legal action” for

purposes of the open meeting law. Valencia v. Cota (App. Div.1 1980) 126 Ariz. 555, 617 P.2d 63.

Open meeting law does not permit the governing board of a public body to take legal action while in executive session, whether or not session was called for purpose of taking such legal action. Cooper v. Arizona Western College Dist. Governing Bd. (App. Div.1 1980) 125 Ariz. 463, 610 P.2d 465.

Formulation of a board of education's intention not to offer a contract to probationary teachers is a "legal action" within meaning of the open meeting law and must be taken during a public meeting in conformance with that law. Karol v. Board of Ed. Trustees, Florence Unified School Dist. Number One of Pinal County (1979) 122 Ariz. 95, 593 P.2d 649.

Election of officers for the state retirement system investment advisory council constitutes legal action and must take place in a public session for which proper public notice has been given pursuant to the open meeting law. Ariz. Att'y Gen. Op.78-97.

Legal action, as defined in this section extends beyond mere formal act of voting; discussions and deliberations by governing body members prior to final decision are an integral and necessary part of any "decision, commitment or promise" and are included within the definition of "legal action." Ariz. Att'y Gen. Op. 75-8.

Meetings

The definition of "meeting" under A.R.S. § 38-431 includes the gathering of a quorum of a public body through technological devices and would encompass serial communications of a quorum of the public body through the Internet or other online medium. Measures must be taken, however, to provide clear notice to the public about when the Board will be deliberating in its online meeting and to facilitate the public's access to the meeting. Ariz. Att'y Gen. Op. I08-008.

In 2018, the Legislature amended the definition of "meeting" in A.R.S. § 38-431 to include "[a] one-way electronic communication by one member of a public body that is sent to a quorum of the members of a public body and that proposes legal action" and "[a]n exchange of electronic communications among a quorum of the members of a public body that involves a discussion, deliberation or the taking of legal action by the public body concerning a matter likely to come before the public body for action."

The "political caucus" exception to the open meeting law applies to partisan-elected public bodies in the exercise of their purely legislative functions; scope

of permissible caucus activity is limited to considering party policy, with respect to a particular legislative issue, and the discussion must be limited to considering matters of party policy and cannot be used to reach a collective decision, commitment, or promise by members of the caucus when that membership constitutes a quorum of the public body. Ariz. Att’y Gen. Op. I83-128.

Substantial Compliance

Court must determine whether there has been substantial compliance with open meeting law by reviewing the whole of the proceeding, rather than its several parts. Carefree Imp. Ass’n v. City of Scottsdale (App. Div.1 1982) 133 Ariz. 106, 649 P.2d 985.

Substantial compliance with provisions of open meeting law with respect to termination proceedings before personnel board will satisfy requirements of those provisions when a technical violation has no demonstrated effect on a complaining party. City of Flagstaff v. Bleeker (App. Div.1 1979) 123 Ariz. 436, 600 P.2d 49.

Electronic Communications

E-mail communications among a quorum of the board are subject to the same restrictions that apply to all other forms of communications among a quorum of the board. E-mails exchanged among a quorum of a board that involve discussions, deliberations or taking legal action on matters that may reasonably be expected to come before the board constitute a meeting through technological means. While some unilateral e-mail communications from a board member to a quorum would not violate the open meeting law, a board member may not propose legal action in an e-mail. See A.R.S. § 38-431(6). Finally, a quorum of the board cannot use e-mail as a device to circumvent the requirements in the open meeting law. Ariz. Att’y Gen. Op. I05-004.



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RULES AND PROCEDURES FOR City Council, Boards, Commissions and Committees

Adopted: June 15, 2005
Last Amendment: February 19, 2025

CITY OF LITCHFIELD PARK CITY COUNCIL RULES AND PROCEDURES

TABLE OF CONTENTS

Section 1 Rules of Procedure/Authority

- 1.1 Procedures**
- 1.2 Parliamentary**
- 1.3 Points of Order**
- 1.4 Quorum**

Section 2 Presiding Officer for Meetings

Section 3 Meetings of City Council and Boards, Commissions and Committees

- 3.1 Regular Meetings**
- 3.2 Special Meetings**
- 3.3 Executive Sessions**
- 3.4 Work/Study Sessions**
- 3.5 Emergency Meetings**
- 3.6 Adjourned Meetings**
- 3.7 Meetings to be Open to the Public**
- 3.8 Conduct and Decorum**
- 3.9 Definitions**
- 3.10 Dress/Appearance**

Section 4 Meeting Agendas and Notices

- 4.1 Agenda Item Submittal for Regular and Special Meetings and Work/Study Sessions**
- 4.2 Agenda Item Submittal for Executive Sessions**
- 4.3 Council Packets**
- 4.4 Preparation of Agenda**
- 4.5 Amended Agendas**
- 4.6 Preparation and Posting of Meeting Notices**
- 4.7 Distribution of Agendas and Notices**

Section 5 Order of Business for City Council Meetings

- 5.1 Order of Business**
- 5.2 Regular Meetings**
- 5.3 Special Meetings**
- 5.4 Work/Study Session Meetings**

- 5.5 Executive Sessions
- 5.6 Items Considered In Order
- 5.7 Mayor and Council Members' Report on Current Events
- 5.8 City Manager's Report on Current Events
- 5.9 Call to the Community
- 5.10 Presentations
- 5.11 Consent Agenda
- 5.12 Business
- 5.13 Adjournment

Section 6 Procedures for Conducting the Meeting

- 6.1 Call to Order
- 6.2 Participation of Presiding Officer
- 6.3 Introduction/Explanation of Agenda Items
- 6.4 Maintenance of Order

Section 7 Motions

- 7.1 Motion Procedure
- 7.2 Motion to Approve or Adopt
- 7.3 Motion to Deny or Disapprove
- 7.4 Motion to Postpone
- 7.5 Motion to Table
- 7.6 Motion to Close, Limit, or to Extend Discussion
- 7.7 Motion to Amend
- 7.8 Motion to Continue
- 7.9 Division of Question

Section 8 Procedure

- 8.1 Casting a Vote
- 8.2 Abstention and Recusal
- 8.3 Tie Votes
- 8.4 Reconsideration
- 8.5 Appointments by the City Council of Board, Commission and Committee Members

Section 9 Meeting Records; Minutes

- 9.1 Meeting Records
- 9.2 Minutes

Section 10 Conflict of Interest

- 10.1 Arizona Conflict of Interest Law – Introduction

- 10.2 Purpose of Conflict of Interest Laws
- 10.3 Applicability of Arizona Conflict of Interest Law
- 10.4 Disclosure of Interest
- 10.5 Withdrawal from Participation
- 10.6 Rule of Impossibility
- 10.7 Improper Use of Office for Personal Gain
- 10.8 Sanctions for Violations
- 10.9 Non-Statutory Conflicts of Interest

Section 11 Boards, Commissions, and Committees

- 11.1 Boards, Commissions, and Committees
- 11.2 Selection of Board, Commission, and Committee Members
- 11.3 Appointments to Community Organizations
- 11.4 Qualifications for Appointment
- 11.5 Terms, Vacancies, and Removal
- 11.6 Applicability of Arizona's Open Meeting Law and Conflict of Interest Law
- 11.7 Agenda Item Submittal for Board and Commissions Regular and Special Meetings and Work Study Sessions
- 11.8 Definitions

Section 12 Council and Candidate Relations with City Staff

- 12.1 Use of City Staff
- 12.2 Information Provided to All Candidates
- 12.3 Staff Communications Through City Manager
- 12.4 Staff Communications Through City Clerk
- 12.5 Prohibition Against Using City Resources for Election

Section 13 City Line

- 13.1 Submittal of Articles
- 13.2 Rules Governing Content of Council Member Articles (added 06-01-05)

Section 14 Use of Personal Computers and Personal Electronic Devices For City Business

- 14.1 Definitions
- 14.2 Public Access and Storage

Section 15 Council Budget

- 15.1 Adoption of City Council Budget
- 15.2 Use of Budgeted Funds; Procedures

Section 1 Rules of Procedure/Authority

1.1 Procedures

All meetings of the City Council and its appointed Boards, Commissions, and Committees shall be governed by these procedures, as applicable. In addition, such meetings shall be governed by the following:

- A. Applicable provisions of the Arizona Revised Statutes (“A.R.S.”), including, but not limited to, the Arizona Open Meeting Law (A.R.S. §§ 38-431 *et seq.*, as amended) and the Arizona Conflict of Interest Law (A.R.S. §§ 38-501 *et seq.*, as amended); and
- B. The City of Litchfield Park City Code; and
- C. The City Charter approved on June 11, 2024.
- D. Where not inconsistent with these rules and procedures, the Arizona Revised Statutes, the City Charter, and the City of Litchfield Park City Code, the current version of Robert’s Rules of Order will be used as a supplementary guideline.

Revised 02-19-25

- E. As used herein, the term “Member” shall refer to either a member of the City Council or Board, Commission or Committee, as applicable. The term “Meeting” shall refer to a meeting of the City Council, Board, Commission or Committee, as applicable.

1.2 Parliamentary

- A. The City Manager shall serve as Parliamentary for all City Council meetings. The City Attorney shall serve as Parliamentary in the absence of the City Manager. The City Clerk shall serve as Parliamentary in the absence of both the City Manager and the City Attorney.
- B. The City Manager or City Attorney shall also serve as Parliamentary for those Board, Commission, and Committee meetings he or she attends. The City Attorney will only attend these meetings when necessary.
- C. The Chairperson shall serve as Parliamentary for each respective Board, Commission, or Committee meeting. The Vice-Chairperson shall serve as Parliamentary in the absence of the Chairperson. The Chairperson Pro Tem shall serve in the absence of the Chairperson and the Vice-Chairperson.

1.3 Points of Order

The Presiding Officer shall, after consultation with the Parliamentary, determine all Points of Order, subject to the right of any Council Member to appeal to the entire City Council or any

Board, Commission or Committee member may appeal to the entire Board, Commission or Committee. In which event, following a second, a majority vote shall govern, and conclusively determine such question of order.

1.4 Quorum

- A. A majority of the City Council or a Board, Commission or Committee shall constitute a quorum for transacting business, but a lesser number may adjourn from time to time and compel the attendance of absent members.
- B. Members of the City Council, Boards, Commissions and Committees are expected to attend all regular or special meetings and all study sessions. Because business cannot be conducted without a quorum present, members should coordinate with the City Clerk to assure that a quorum is present for meetings, which may require that personal matters may have to be rescheduled.

A member shall notify the City Clerk at least five days prior to a regular or special meeting or a study session if the member will not attend a scheduled meeting. In the event of an emergency arising after the deadline for notice of absence, the member shall be excused from this requirement. If the regular or special meeting or study session is scheduled with less than five days' notice, the member shall give as much notice as is practicable.

Revised 09-18-19

- C. If any Council Member is absent from more than three consecutive regular meetings, or a total of four regular meetings in any calendar year, without the consent of the Council duly recorded in the minutes, they shall thereupon cease to hold office. Meetings that are cancelled do not apply to this section.

Revised 02-19-25

Section 2 Presiding Officer for Meetings

- A. The Mayor is the Presiding Officer of all meetings of the City Council. In the Mayor's absence, the Vice-Mayor shall serve as the Presiding Officer. In the absence or disability of both the Mayor and the Vice-Mayor, the meeting shall be called to order by the City Manager, whereupon the City Manager shall immediately call for the selection of a Presiding Officer Pro Tem. The Council Members present shall, by majority vote, select a Presiding Officer Pro Tem for that meeting.
- B. The Chairperson is the Presiding Officer of all meetings of the Board, Commission or Committee. In the Chairperson's absence, the Vice-Chair shall serve as the Presiding Officer. In the absence or disability of both the Chairperson and the Vice-Chair, the meeting shall be called to order by the City Manager or principal City staff present, whereupon the City Manager City staff shall immediately call for the selection of a Presiding Officer Pro Tem. The Members present shall, by majority vote, select a Presiding Officer Pro Tem for that meeting.

Section 3 Meetings of City Council and Boards, Commissions and Committees

3.1 Regular Meetings

- A. At its first meeting each year, the City Council, Boards, Commissions, and Committees shall establish regular meeting dates for that year. All regular Meetings shall be held at a time and public place as determined by the Presiding Officer and designated in the notice of the meeting.
- B. When the day for a Regular Meeting falls on a legal holiday, no meeting shall be held on such holiday. The meeting shall either be cancelled or be convened at the same time and the same location on the next succeeding business day thereafter that is not a legal holiday or at such other time as designated by the City Council or Board, Commission or Committee.

3.2 Special Meetings

- A. The Mayor or acting Mayor, or at the request of three Council Members, by giving notice thereof to all Council Members, may call a special meeting of the Council for a time not earlier than twenty-four hours after notice is lawfully given and posted. In case of an actual emergency, a meeting may be held upon such notice as is appropriate to the circumstances, with only the business concerning such emergency to be acted upon.

Revised 02-19-25

- B. Special Meetings may be held for the purpose of presentations, discussion, citizen comment, or action on issues as deemed necessary to further the business of the City that are time critical or due to special circumstances must be considered prior to the next regularly scheduled Regular Meeting.

3.3 Executive Sessions

- A. The City Council or Board, Commission or Committee may hold an Executive Session pursuant to A.R.S. §§ 38-431.01 *et seq.*, as amended.
- B. All information distributed and all discussions during an executive session shall remain confidential indefinitely and are not to be divulged or provided to or discussed with persons who were not parties to the executive session or members of the Council or Board, Commission or Committee, except as permitted or required by A.R.S. § 38-431.03 or a court order.

3.4 Work/Study Sessions

The City Council or Board, Commission or Committee may schedule work or study sessions for the purpose of presentations and discussions on such issues that require more in-depth consideration by the City Council or Board, Commission or Committee, than may be possible at

a Regular Meeting. No formal action may be taken by the City Council or Board, Commission or Committee at such meetings, other than a general consensus or conveying direction to City Staff for further action.

3.5 Emergency Meetings

As provided for in A.R.S. § 38-431.02(D) and (E), Special Emergency Meetings, including a Special Emergency Executive Sessions may be called to discuss or take action on an unforeseen issue where time is of the essence and there is not sufficient time for posting of a meeting notice 24 hours or more before the meeting. In such event, the meeting shall be held upon such notice as is appropriate or practicable to the circumstances. Notice of an Emergency Meeting will be posted within 24 hours following the holding of an Emergency Meeting. The Notice will include the Agenda and a brief but complete description of the nature of the emergency.

3.6 Adjourned Meetings

Any meeting may be adjourned to a time, place, and date certain, but not beyond the next Regular Meeting. Once adjourned, the meeting may not be reconvened except at the time, date, and place provided for in the motion.

3.7 Meetings to be Open to the Public

- A. Pursuant to the Arizona Open Meeting Law, with the exception of Executive Sessions, all Regular Meetings, Special Meetings, Work/Study Sessions, and Emergency Meetings shall be open to the public.
- B. All public meetings may be recorded or photographed by means of audio, video, or photographic equipment provided, however, that there is no interference with the orderly conduct of the meeting, and the equipment is placed in non-hazardous locations as designated by City Staff.
- C. Pursuant to A.R.S. 38-431.02(H), the agenda will include the notice of the time that the public will have physical access to the meeting place.

Revised 11-15-23

3.8 Conduct and Decorum

- A. Members:
 - 1. Any Member desiring to speak shall address the Presiding Officer and, upon recognition by the Presiding Officer, may speak. The Presiding Officer shall not unreasonably withhold such recognition; however, the Presiding Officer may call for a vote as to whether to continue a repetitive discussion or motion.

2. When two or more Members wish to speak, the Presiding Officer shall determine the order of speaking and recognize the first speaker.
 3. While a Member is speaking, no other Member shall interrupt except to make a point of order or point of personal privilege. A point of order is raised when a Member raises a question of whether there has been a breach of the procedures. A point of privilege is raised when a disturbance occurs or when anything affecting the rights of the Members occurs and a Member states the problem; the Presiding Officer decides the question.
 4. When a motion is made and seconded, the Presiding Officer shall ensure that the debate is confined to the motion.
 5. The City Council or Board, Commission or Committee may limit debate on any matter before it to 20 minutes. This time limit may be lengthened by a majority vote. Public Hearings should not be limited.
 6. The City Council, Board, Commission or Committee member will not harass, sexual harass, personally attack, or discriminate against each other or Staff. Any City Council member who violates this provision may be subject to recall under A.R.S. § 19-201. Members of Boards and Commissions may be removed at the pleasure of the Council.
- Revised 02-19-25
7. If a Member acts in violation of these rules, the Presiding Officer shall, or any Member may, call that Member to order. The Member so called shall immediately cease speaking, but may appeal to the City Council or Board, Commission or Committee, as applicable. Any such appeal shall be decided by a majority vote without debate.

B. City Staff:

1. City Staff and employees of the City shall observe the same rules of procedure and decorum as the members of the City Council. Staff will address Council Members by their titles whenever a meeting is being conducted and the public is present.

Revised 5-17-23

C. Public:

No member of the public shall be allowed to disrupt a public meeting. Disorderly conduct includes the utterance of loud, threatening or abusive language, whistling, stamping of feet or other acts which disturb, disrupt or otherwise impede the orderly conduct of any public meeting. Any person who conducts himself or herself in the aforementioned manner shall, at the discretion of the Presiding Officer or a majority of the Members, be barred from further audience during that meeting.

D. Enforcement of Decorum

The rules of decorum set forth above shall be enforced in the following manner:

1. **Warning:** The Presiding Officer shall issue a warning and request that a person who is breaching the rules of decorum be orderly and silent. If, after receiving two warnings from the Presiding Officer, a person persists in disturbing the meeting, the Presiding Officer may order him or her, to leave the meeting. If such person does not remove himself or herself, then pursuant to Arizona Revised Statutes section 13-3804, the Presiding Officer may order any law enforcement officer who is present at the meeting to remove that person from the facility.
2. **Removal:** A law enforcement officer who is present at the meeting shall carry out the orders and instructions given by the Presiding Officer for the purpose of maintaining order and decorum at the meeting.
3. **Motion To Enforce:** If the Presiding Officer fails to enforce the rules set forth above, any Member may move to require him or her to do so, and an affirmative vote of a majority of the Members shall require him or her to do so. If the Presiding Officer fails to carry out the will of a majority of the Members, the majority may designate another Member to act as Presiding Officer for the limited purpose of enforcing any rule of this section which it wishes to enforce.
4. **Adjournment:** If a meeting is disturbed or disrupted in such a manner as to make infeasible or improbable the restoration of order, the meeting may be adjourned or continued by the Presiding Officer or a majority of the Members until such time as order may be restored.

Revised 02-19-25

Section 3.9 Definitions

- A. **Harassment:** Conduct which has the purpose or effect of unreasonably interfering with an individual's work performance or creating any intimidating, hostile, or offensive work environment, based on that individual's race, color, gender, national origin, religion, age, disability, or sexual orientation.
- B. **Sexual Harassment:** Any unwelcome sexual advances, requests for sexual favors, or other verbal or physical 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 a basis for employment decisions affecting such individuals, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance.
- C. **Personal Attack(s):** An abusive remark on or relating to somebody's person instead of providing evidence when examining another person's claims or comments.

- D. **Improper Conduct:** Improper conduct shall mean any actions by an employee or City official, which tends to affect that person's ability to perform his/her duties efficiently and effectively, or any improper use of his/her duties for personal advantage.
- E. **Discrimination:** the unjust or prejudicial treatment of different categories of people, especially on the grounds of ethnicity, age, sex, or disability.

Revised 5-17-23

3.10 Attire

It is the policy of the City that each Council, Board, and Commission Members dress, grooming, and personal hygiene be appropriate during all meetings and public events. All Council, Board, and Commission Members are expected, during City meetings and public events, to present a professional, businesslike image to the public and keep safety in mind when selecting their attire.

General guidelines for appropriate attire for Council, Board, and Commission Members include:

Pants

- Slacks (khakis, dress pants)
- Capri (business wear)
- Denim (clean, no holes or tears)

Shirts/Blouses

- Polo-style/pull-over with collar button-up/oxford style
- T-shirts with City logo (for City events)
- Blouses (Straps at least 2" wide)

Skirts

- Not shorter than 3" above the knee

Shoes

- Dress shoes (including sandals)
- Loafers
- Athletic or "tennis" shoes in good condition

General guidelines for inappropriate attire for Council, Board, and Commission Members include:

General

- Items in disrepair (frayed, tattered, torn, etc.)
- Spandex
- Offensive/obscene graphics, symbols, or wording include those relating to sex, drugs, alcohol or tobacco
- Political advocacy statements

- Caps/Hats (unless required)

Pants

- Shorts of any kind (only during public meetings)
- Sweat pants/athletic wear
- Pajama style pants
- Leggings
- Mini skirts
- Skorts
- Sun dresses/skirts more than 3" above the knee

Shirts/Blouses

- Tank tops (unless worn under a sweater or cardigan)
- Tops that show the midriff or lower back
- See-through clothing
- Muscle shirts

Shoes

- Flip Flops
- Beach sandals

Hats

- Except those required for religious reasons

Body Piercings - Septum rings, septum piercings, rings or jewelry in tongues, ear "gauges", or any other form of exposed flesh piercing or body art, (except moderate earrings, earring piercing or moderate nose piercings) that are visible to the public may not be worn during public meetings or events.

Tattoos- Must be covered if considered offensive including depictions involving profanity, racism, inappropriate body parts, or other acts in poor taste. Facial tattoos must be covered during any City meeting or public event.

Hair colors- Hair colors choices that reflect non-natural human hair colors will not be allowed. Facial hair is permitted as long as it is neat and well-trimmed and not a safety hazard.

Revised 2-19-25

Section 4 Meeting Agendas and Notices

4.1 Agenda Item Submittal for Council Regular and Special Meetings and Work/Study Sessions

- A. Items may be placed on a Regular, Special or Emergency Meeting Agenda or Work/Study Session Agenda for City Council discussion and possible action by (i) the Mayor, (ii) two Council Members, or (iii) the City Manager.

- B. Contracts, ordinances, resolutions and other documents requiring review by the City Attorney shall be provided to the City Attorney prior to placing the item on the Agenda and in sufficient time for legal review.
- C. Any item placed on an agenda must be accompanied by supporting documents and a Council Communication that contains, at a minimum, the following information:
 - 1. Background information on the item;
 - 2. Financial impact if approved; and
 - 3. Proposed action.

The documents and Council Communication must be submitted sufficiently in advance to be included in the council packet. If the agenda item is requested by two Council Members, the requesting Council Members shall sign the Council Communication.

4.2 Agenda Item Submittal for Executive Sessions

Items may be placed on the Agenda for a City Council Executive Session for discussion if in compliance with the City Code, these Rules of Procedure, and applicable provisions of the Arizona Revised Statutes, by the following process:

- A. Items may be placed on an Agenda for Executive Session discussion by (i) the Mayor, (ii) two Council Members, or (iii) the City Manager.
- B. The City Attorney shall review all items submitted for Executive Session discussion prior to placement on the Agenda to ensure that the item is legally permissible to be discussed in Executive Session pursuant to A.R.S. § 38-431.03. If permissible, the City Clerk shall place notice of such Executive Session discussion on the public Agenda.

4.3 Council Packets

- A. City Council packets contain the Agenda, unapproved Minutes of previous City Council Meetings, City Council communications, and any ordinances, agreements, or resolutions to be acted upon including Staff Reports and other documentation that may be attached to support items contained on a City Council Agenda for all noticed meetings of the City Council.
- B. Full packets for ALL noticed City Council Meetings (except Executive Session documentation) are delivered to Council Members. Every effort will be made to distribute full packets by the Thursday prior to each Regular City Council Meeting and not less than 24 hours prior to any Special City Council Meeting.

Revised 02-19-25

4.4 Preparation of Agenda

- A. An Agenda is the formal description of items to be considered by the City Council at a noticed meeting of the City Council. The final Agenda must be posted at least twenty-four (24) hours prior to the City Council's meeting.
- B. The City Clerk and City Manager shall prepare the Agendas for all meetings of the City Council. The City Clerk and City Manager may prepare an addendum to the Agenda for items that have emerged after the Agenda has already been distributed.

4.5 Amended Agendas

The City Clerk may amend a published Agenda, but not less than twenty-four (24) hours prior to the designated Meeting and only upon receipt of direction from (i) the Mayor or two members of the City Council acting through the City Manager or (ii) the City Manager, or to correct minor errors. Subsequent amended Agendas will indicate the sequential number of the amendment and the date amended.

4.6 Preparation and Posting of Meeting Notices

Agendas are posted at each of the following locations at least 24 hours before each meeting:

- 1. The bulletin board outside City Hall, and
- 2. On the City's Website.

Revised 10-16-19

4.7 Distribution of Agendas and Notices

- A. The City Clerk shall ensure that the Mayor and City Council Members receive copies of all City Council Meeting Notices and Agendas, and any documentation provided for said Meeting, not less than twenty-four (24) hours prior to the Meeting.
- B. The City Clerk shall ensure that the City Council Meeting Notices, Agendas, and documentation, as deemed necessary, are distributed to the City Manager and the City Attorney and necessary City Staff. Courtesy copies will be available to the press and others upon request or as directed by the Mayor through the City Manager, not less than twenty-four (24) hours prior to said meeting.

Revised 3-21-12

Section 5 Order of Business for City Council Meetings

5.1 Order of Business

The Order of Business of each meeting of the City Council shall be as contained in the Agenda as prepared by the City Clerk. The Agenda shall be sequentially numbered by topic and list each item included under each agenda category followed by a brief description, including a dollar amount where appropriate.

5.2 Regular Meetings

The general form of the Agenda shall be as follows and may be changed as necessary:

AGENDA

All Agendas shall have the following statement placed at the top of the agenda:

A. Members of the Litchfield Park City Council may attend either in person, by telephone, or video conference call.

B. Physical access to the meeting room will be available 30 minutes prior to the meeting.

Revised 11-15-23

- I. **Call to Order**
- II. **Pledge of Allegiance & Invocation**
- III. **Mayor and Council Members' Report on Current Events**
- IV. **City Manager's Report on Current Events**

Revised 02-19-25

- V. **Call to the Community**
- VI. **Presentations**
- VII. **Consent Agenda**
- VIII. **Business**
- IX. **Executive Session**
- X. **Adjournment**

Responses from the audience who have submitted a written request to speak on an agenda item shall be limited to 3 minutes per speaker.

All Agendas shall have the following statement placed at the bottom of the Agenda:

Persons with special accessibility needs should contact the City Hall, 623-935-5033, at least 48 hours prior to the meeting.

5.3 Special Meetings

A. If a Special Meeting is being held in place of a Regular Meeting, the Agenda shall be as set forth for a Regular Meeting.

B. If a Special Meeting or Work Study Session is being held prior to the Regular Meeting, the Pledge of Allegiance will be removed from the Regular Meeting agenda and will be cited during the Special Meeting or Work Study Session.

Revised 04-17-24

C. For all other Special Meetings, the Agenda will generally be prepared in the following order:

AGENDA

- I. Call to Order**
- II. Pledge of Allegiance**
- III. Call to the Community**
- IV. Consent Agenda**
- V. Business**
- VI. Executive Session (optional)**
- VII. Adjournment**

5.4 Work/Study Session Meetings

Questions may be directed by the City Council to a member of the public or another interested party, or in appropriate circumstances, a brief presentation may be permitted by a member of the public or another interested party on an Agenda item, or a particular question related to an Agenda item.

Public Presentations to the City Council will be limited to 15 minutes, unless otherwise designated by a majority vote. Citizens may attend work-study sessions but can speak only after submitting a written request. Speakers will be limited to 3 minutes per speaker.

Revised 02-19-25

The Agenda generally will be prepared in the following order:

- I. Call to Order**
- II. Pledge of Allegiance**
- III. All Items Listed Are for Discussion Only. No Action Can Or Will Be Taken**
- IV. Agenda Items for Discussion (Items numbered for order)**
- V. Adjournment**

5.5 Executive Sessions

The Agenda for an executive session generally will be prepared in the following order:

- I. Call to Order**
- II. Agenda Items for Discussion**
- III. Adjournment**

5.6 Items Considered in Order

- A.** The Presiding Officer, or the City Council by consensus, may consider items out of sequence from the printed Agenda for the meeting.
- B.** Action may be taken on all items listed for action on the Agenda. In the event of an emergency, action may be taken on items not listed on the Agenda. However, the

action must subsequently be noticed in accordance with A.R.S. § 38-431.02, as amended.

- C. Items on the agenda listed for action that allow the public to comment on will be marked as ***ACTION/COMMENT***

Revised 11-15-23

5.7 Mayor and Council Members' Report on Current Events

This is the time Council Members may present a brief summary on current events. This will be limited to no more than 5 minutes per council member and be monitored by the Parliamentarian. A.R.S. § 38-431.02 prohibits the City Council from proposing, discussing, deliberating, or taking any legal action on the information presented unless the specific item is listed on the Agenda.

5.8 City Manager's Report on Current Events

The purpose of this section of the Agenda is to afford the City Manager an opportunity to provide the City Council and the public with status reports or updates on City projects and to alert them to upcoming City events or regional events of potential interest. No discussion or action may be taken unless the specific item is listed on the Agenda.

5.9 Call to the Community

- A. Presentation of petitions or public comments on non-agenda items may be heard under "Call to the Community." All citizens and interested parties will be limited to a maximum of three minutes to address the City Council on a Non-Agenda item which will be monitored by the Parliamentarian. However, the time limit may be waived by consensus of the City Council.

Revised 02-19-25

- B. At the conclusion of all citizens' and interested parties' comments, the Mayor or any Council Member may take any or all of the following actions:
 - 1. Ask City Staff to review the matter.
 - 2. Ask that the matter be put on a future Agenda.
 - 3. Thank the citizens for their comments.

If a citizen has criticized one or more members of the Council, the Council may respond to such criticism, but only at the conclusion of the Call to the Community.

- C. All citizens and interested parties wishing to speak before the City Council on Agenda items or Non-Agenda items shall complete a speaker request form and submit it to the City Clerk before the agenda item is heard.

Revised 02-19-25

5.10 Presentations

This section of the Agenda is for allowing the Mayor, Council Members, City Staff, and invited interested parties to make informational presentations to the City Council and the public. Such informational items may only be discussed if specifically listed on the Agenda. No action may be taken on Presentation items which will be monitored by the Parliamentarian.

5.11 Consent Agenda

- A. The Consent Agenda includes items that (i) are of such a nature that discussion may not be required or (ii) have been previously studied by the City Council. These items may be adopted by a single motion, second, and affirmative vote of a majority vote.
- B. There is no discussion on items listed under the Consent Agenda beyond asking questions for simple clarification, unless a Council Member requests that an item be removed for discussion.
- C. At the City Clerk's discretion, items on the Consent Agenda with minor changes to items on the Consent Agenda may be made without having to be removed from the Consent Agenda.

Revised 5-17-23

5.12 Business

- A. The Presiding Officer will introduce each Business item by reading its title or description from the Agenda.
- D. If a public hearing is required for a business item, the following sequence of events will generally be followed: Appropriate City Staff will present its report and recommendation (if any). Council Members will then have an opportunity to question City Staff. The Presiding Officer will then open the public hearing. The first speaker will be the applicant (if any), who will have an opportunity to present comments, testimony, or arguments to the City Council. The Presiding Officer will then ask for public comment beginning with those individuals who have previously completed and submitted Speaker Request forms. The applicant will then be afforded an opportunity for rebuttal and concluding comments. The public hearing will then close, and no further public comments will be taken. The City Council will then deliberate and take action.
- C. Those speaking before the City Council, other than the applicant, will be allowed three minutes to address the City Council, but time limits may be waived upon consensus of the City Council.

5.13 Adjournment

The open public meeting of the City Council may be adjourned by a motion to adjourn, a second, and an affirmative majority vote or the Presiding Officer, upon finding and stating no further business pending before the Council, may declare the meeting is adjourned without the need for a motion. The Presiding Officer, without the need for a motion, may also temporarily suspend the meeting for a specified amount of time if there is a disruption or other emergency.

Revised 02-19-25

Section 6 Procedures for Conducting the Meeting

6.1 Call to Order

All meetings shall be called to order by the Presiding Officer.

6.2 Participation of Presiding Officer

The Presiding Officer shall conduct the meeting. The Presiding Officer may debate and vote, subject only to such limitations of debate as are imposed on all Members.

6.3 Introduction/Explanation of Agenda Items

The Presiding Officer shall introduce each Agenda item by reading its full title and description, if any, and may provide whatever additional information he or she deems necessary or reasonable.

6.4 Maintenance of Order

The Presiding Officer is responsible for the maintenance of order and decorum at all times. All questions and remarks shall be addressed to the Presiding Officer.

Section 7 Motions

7.1 Motion Procedure

- A. When a motion is made and seconded, it shall be stated by the Presiding Officer before debate.
- B. The maker of the motion has the right to modify his or her motion or to withdraw it entirely. If the motion is modified, the Member who has seconded it has the right to withdraw his or her second.
- C. If a modification to a motion made by another Member is accepted by the maker of the motion, the Member who seconded the unmodified motion shall be requested to

reaffirm his or her second after modification. If the Member refused to reaffirm the second, the second is presumed made by the Member suggesting the modification.

- D. In the case of a tie in votes on any motion, the motion shall be considered defeated.

7.2 Motion to Approve or Adopt

A motion to approve or to adopt shall be to approve the Agenda item as proposed or as proposed with an amendment(s) or stipulation(s). After the motion is made and seconded, it shall require an affirmative majority vote to pass, unless the matter is subject to a super majority vote (two-thirds or three-quarters majority). If the motion fails, the Agenda item shall be deemed defeated, unless a new motion is introduced and seconded.

7.3 Motion to Deny or Disapprove

A motion to deny or to disapprove shall be to reject the Agenda item as proposed. After the motion is made and seconded, it shall require an affirmative majority vote to defeat the item. If the motion fails, the Agenda item will not be deemed approved, unless a separate motion to approve or adopt is made and seconded and passes by the requisite majority vote.

7.4 Motion to Postpone

A motion to postpone is used to dismiss an item on the Agenda. This motion is debatable, and because it can be applied only to the main question, it can, therefore, only be made while the main question is immediately pending (a motion and second is on the floor). This motion is commonly used to postpone an item until a more appropriate time.

7.5 Motion to Table

Motions to table shall be to a definite time. Such motions shall be amendable and debatable only as to the propriety of postponement and the time set.

7.6 Motion to Close, Limit, or to Extend Discussion

Commonly referred to as "Calling the Question," this motion is used to limit or close debate on, or further amend, the main motion. This motion cuts off debate. The Presiding Officer may either immediately call for a vote on the main motion or ask the Members to vote on whether to call for a vote on the main motion.

7.7 Motion to Amend

- A. A motion to amend shall be debatable only as to the amendment. A motion to amend an amendment shall be in order, but a motion to amend an amendment to the amendment shall not be in order.

- B. A substitute motion on the same subject shall be acceptable and shall be voted on before a vote on the amendment.
- C. Amendments shall be voted on first, then the main motion as amended.

7.8 Motion to Continue

Motions to continue shall be to a definite time. Such motions shall be amendable and debatable only as to the propriety of postponement and the time set.

7.9 Division of Question

If the question or motion contains two or more propositions that could be divided, the Presiding Officer may, upon his or her own initiative or upon the request of a Member, divide the question or motion into multiple questions or motions for separate consideration and action.

Section 8 Voting Procedure

8.1 Casting a Vote

- A. The vote on any question shall be by ayes and nays or by roll call vote and shall be entered in the minutes. At the request of any Council Member, a roll call vote shall be taken. Second readings of City ordinances shall require a roll call vote. The vote may be taken by electronic device.
- B. The vote on each motion shall be entered into the Record by number of and the names of Members casting votes for and against.
- C. If a Member has declared a Conflict of Interest and is absent during the roll call vote, the City Clerk shall include "Absent for the vote due to declared conflict of interest" in the Official Minutes as part of the results of the vote.

Revised 02-19-25

8.2 Abstention and Recusal

- A. If a Member has a conflict of interest on a matter before the Council or Board, Commission or Committee, he or she shall declare a conflict of interest pursuant to Section 10 and recuse himself or herself from voting on a particular Agenda item on grounds of a declared conflict of interest.
- B. Sometimes a Member may have a reason other than a statutory or non-statutory conflict of interest that he or she believes hinders, compromises, or impairs his or her ability to cast a vote for or against a particular Agenda item. In such event, the Member may abstain from voting. However, if the abstention results in the lack of a quorum, the abstention shall be counted as an affirmative vote.

8.3 Actions to be Taken by Ordinance

The following actions by the Council shall, unless otherwise specifically authorized or directed by state law, be taken only by ordinance:

1. Providing for the levying of any tax or assessment.
2. Providing for the sale, purchase and/or exchange of real property.
3. Providing for the establishment or changing of building and zoning regulations, or zoning amendments.
4. Providing for the alteration of the municipal boundaries by annexation or otherwise.
5. Borrowing money.
6. Providing for a sanction or penalty

All ordinances presented to the Council for introduction must have the possible adoption date listed on the agenda of the meeting for introduction.

All ordinances presented to the Council for adoption shall be done by a roll call vote.

Revised 02-19-25

8.4 Tie Votes

When there is a tie vote on a motion requiring a majority vote for adoption or approval, the motion shall be deemed defeated. When all Members are present, a tie vote on whether to grant an appeal from official action shall be considered a denial of such appeal, unless the City Council or Board, Commission or Committee takes other action to further consider the matter.

8.5 Reconsideration

When an ordinance, put on final passage, fails to pass, no motion to reconsider shall be made except by a member who voted on the prevailing side, and no motion to reconsider shall be considered within twenty-four hours of the conclusion of the meeting where the vote was heard.

Revised 02-19-25

8.6 Appointments by the City Council of Board, Commission and Committee Members

A nomination that does not receive a second fails. The vote of a majority of the quorum is required for appointment. Board and Commission members will be voted for by a ballot vote.

Section 9 Meeting Records; Minutes

9.1 Meeting Records

The official record of each City Council Meeting shall consist of any legal actions formally adopted or approved by the City Council during the Meeting, including any attachments or exhibits thereto, and the final approved Minutes of the Meeting. The record shall also include any documents or other tangible matter submitted to the City Council, Board, Commission or Committee or the City Clerk for inclusion in the record by persons addressing the Council or

Board, Commission or Committee in connection with agenda items during the Meeting. These records shall be maintained and preserved by the City Clerk as the official custodian of records for the City.

9.2 Minutes

- A. The City Clerk's office shall provide staff support at all Regular, Special, and Emergency Meetings and Work/Study and Executive Sessions for the purpose of taking notes and/or audio recordation of the Meeting or Session, as appropriate.
- B. For Regular, Special, and Emergency Meetings, written action Minutes instead of verbatim Minutes shall be taken so that a brief accounting of the issues discussed, and actions taken is compiled and entered into the permanent Minute Book of the City and kept on file and of record in the Office of the City Clerk. The Minutes shall reflect Member attendance for the entire meeting (including notations indicating when a Member arrives late or leaves early). Audio or video recordings of meetings will be retained six months after being transcribed in accordance with the current State of Arizona approved Records Retention and Disposition Schedules.
- C. Executive Session Minutes shall be confidential. Executive Session Minutes shall be taken in summary form and shall be restricted to indicating the topic discussed, the speakers, and a brief summary of what was said by each speaker. Executive Session Minutes shall be kept in a separate secure confidential file in the Office of the City Clerk. Executive Session Minutes may be accessed only as provided by the Arizona Revised Statutes or court order. There shall be no audio or video recordings of Executive Sessions.
- D. All Minutes of Meetings are Public Records under the Arizona Public Records Law (A.R.S. § 39-121 *et seq.*, as amended), with the exception of Executive Session Minutes. Audio recordings and video recordings of public Meetings are also Public Records.

Revised 02-19-25

Section 10 Conflict of Interest

10.1 Arizona Conflict of Interest Law -- Introduction

Sometimes a Member of the City Council or Board, Commission or Committee may face a situation which requires that Member to not participate in a discussion and voting on an agenda item. This situation exists when the Member has a pecuniary interest in the outcome of the vote. (*This results in a "conflict of interest" as defined by the Arizona conflict of interest law, A.R.S. §§ 38-501, et seq.*) This law establishes minimum standards for the conduct of public officers and employees who, in their official capacity, are, or may become involved with, a decision that may unduly affect their personal interests or those of their close relatives.

10.2 Purpose of Conflict of Interest Laws

The purpose of Arizona's conflict of interest law is to prevent self-dealing by public officials and to remove or limit any improper influence, direct or indirect, that may bear on an official's decision, as well as to discourage deliberate dishonesty.

10.3 Applicability of Arizona Conflict of Interest Law

The Arizona conflict of interest law, as now in effect and as it may be amended in the future, applies to all matters considered by and all actions taken by the City Council or Boards, Commissions and Committees.

- A. Any member of the Council, or any officer or employee of the City who has, or whose relative has, a substantial interest in any contract, sale, purchase, or service to the City or a contractor supplying the City, shall make known that interest in the official records of the City and shall refrain from voting upon or otherwise participating in any manner as a Council Member, officer, or employee in such contract, sale, or purchase.

Revised 02-19-25

- B. Any member of the Council, or any officer or employee of the City who has, or whose relative has, a substantial interest in any decision of the Council, or any board or commission of the City of which he is a member or to which he makes recommendations, shall make known such interest in the official records of such Council, board, or commission and shall refrain from participating in any manner as a Council Member or an officer or employee in such decision.

Revised 02-19-25

- C. No member of the Council or any officer or employee of the City shall sell or supply to the City any equipment, material, supplies, or services, unless pursuant to an award or contract let after public competitive bidding.

Revised 02-19-25

- D. As used in this section, the following definitions apply:
"Relative" means the spouse and/or partner in a civil union, child, child's child, or stepchild legally residing with the public officer, parent, grandparent, brother, or sister of the whole or half blood and their spouses and the parent, brother, sister, or child of a spouse and/or partner in a civil union. For this definition, "civil union" means a relationship between two individuals registered with a governmental agency or employer as a relationship for employer benefits and similar legal purposes.

Revised 02-19-25

"Substantial interest" shall have the meaning as defined in state statute.

Revised 02-19-25

10.4 Disclosure of Interest

Any Member who believes he may have a conflict of interest should seek the opinion of the City Attorney as to whether a conflict exists under the Arizona conflict of interest law. Any Member

who has a conflict of interest in any agenda item or other matter discussed by the Council or Board, Commission or Committee must disclose that interest. The Member may either file a signed written disclosure statement fully disclosing the interest, or declare the existence of the conflict and the reasons therefore at a Meeting and then ensure that a copy of disclosure statement is filed with the City Clerk. The Member may either file a signed written disclosure statement fully disclosing the interest, or declare the existence of the conflict and the reasons therefore at a City Council or Board, Commission or Committee meeting and then ensure that a copy of Minutes is filed with the City Clerk. The Disclosure of the conflict shall include a statement that the Member withdraws from further participation regarding the matter. The City Clerk shall maintain for public inspection all documents necessary to memorialize all disclosures of a conflict of interest by a Member.

10.5 Withdrawal from Participation

Having disclosed the conflict of interest and withdrawn from the matter, the Member must not participate in the decision-making process of the Council or Board, Commission or Committee. Further, the Council Member should remove himself/herself from the dais while the matter is being considered and decided.

10.6 Rule of Impossibility

In the unlikely situation that a majority of the Members has a conflict of interest on a matter the provisions of A.R.S. § 38-508(B) shall apply.

Revised 5-17-23

10.7 Improper Use of Office for Personal Gain

Public officers and employees are prohibited from using or attempting to use their official positions to secure valuable things or benefits for themselves, unless such benefits are part of the compensation, they would normally be entitled to for performing their duties.

10.8 Sanctions for Violations

Violations of the conflict-of-interest provisions set forth herein shall be punished as provided for by state law.

10.9 Non-Statutory Conflicts of Interest

Sometimes a Member may feel ethically constrained from participating in the discussion and voting on an agenda item, even though the circumstances may not technically amount to a conflict of interest under the Arizona conflict of interest law. Such conflicts may not violate the state law but may create an appearance of impropriety. Under such circumstances, the Member should consider disclosing the conflict on the record, formally recusing himself, and stepping down from the dais until the City Council or Board, Commission or Committee has concluded the public hearing and its discussion and voting upon the item.

Section 11 Boards, Commissions, and Committees

The Council may, by ordinance, resolution, or motion, create or abolish boards, commissions, or committees as in its judgment are required, and may grant to them such powers and duties as are consistent with the Charter.

Revised 02-19-25

11.1 Boards, Commission, and Committees

A. All Boards, Commissions, and Committees of the City shall be classified as a regularly scheduled or unscheduled Board, Commission, or Committee. Regularly scheduled Boards, Commissions, and Committees are those that meet on a regularly scheduled basis or may be quasi-judicial in nature. Unscheduled Boards, Commissions, and Committees meet on an as called basis. All Boards, Commissions and Committees serve at the pleasure of the council.

B. The City's current regularly scheduled Boards, Commissions, and Committees are:

1. Planning and Zoning Commission;
2. Recreation and Public Grounds Commission

Revised 10-20-21

C. The City's current unscheduled Boards, Commissions, and Committees are:

1. Board of Adjustment;
2. Design Review Board;
3. Community Facilities District Board

Revised 5-17-23

D. Any Board, Commission, or Committee the City creates shall cease to exist upon the accomplishment of the special purpose for which it was created, or when abolished by the City Council.

11.2 Selection of Board, Commission, and Committee Members

A. Each Board and Commission shall consist of five or seven members, unless otherwise provided in this Article or by state law or ordinance, who shall be appointed by the Council and shall serve without pay. Ex officio membership may be appointed by the Council.

Revised 02-19-25

B. The City Council appoints all members of the City's Boards, Commissions, and Committees. The City continually accepts applications from Litchfield Park residents interested in serving on a Board, Commission, or Committee. The application form is available from the City Clerk or on the City's web site. Completed applications are kept on file for one year after submission for consideration should a vacancy occur on the Board, Commission or Committee for which the application was submitted.

C. A call for applications to fill vacant seats shall be posted on the outside kiosk, website, and other means available to the City. Vacancies shall be filled by the Council. The Council shall designate the term of the appointment. Qualified and interested persons eligible to fill the vacancy shall be identified from the community.

Revised 02-19-25

E. Persons applying for the vacant seats must fill out and submit the City application form to the City Clerk. Those who have previously submitted applications need not reapply, unless they are applying for a Board, Commission, or Committee position not indicated on an earlier application or the earlier application has expired.

F. After receiving the completed applications, the City Clerk shall place selection of the new Board, Commission, or Committee members on the next available Regular Meeting Agenda or call a Special Meeting for this purpose. The Council Packet for the meeting shall include copies of all applications received for the vacant seats by persons meeting the qualifications for appointment set forth in Section 11.3.

Revised 5-17-23

G. All applicants shall be notified of the time and date of the public meeting for selection of the new Board, Commission, or Committee members and shall be invited to attend so that they may answer questions by the City Council. The public will not be permitted to ask questions of the applicants.

H. At the conclusion of the question-and-answer session, the City Council shall vote to fill each vacancy by the following method:

1. Each Council Member shall cast the same number of votes as the number of vacancies being filled on the ballot provided to them and submit to the City Clerk for tallying. For example, if there are three vacancies on a Board, Commission or Committee, each Council Member shall cast three votes.

Revised 02-19-25

2. Majority Vote. The votes shall be counted and any applicant receiving the number of votes equal to a majority of the number of Council Members voting shall be appointed to the Board, Commission or Committee.

3. Run-Off. If all vacancies are not filled on the first ballot, another vote shall be held. The number of candidates in the run-off shall be limited to twice the number of vacancies remaining.
4. Any applicant receiving the number of votes equal to a majority of the number of Council Members voting shall be appointed to the Board, Commission or Committee.
- I. All terms shall expire on March 1st of the appropriate year, except that if the successor has not been appointed, a member's term shall extend until his successor has been appointed.
- J. Each Board, Commission or Committee will be voted on separately. Revised 02-19-25
- K. If any Board, Commission, or Committee member is absent from more than three consecutive regular meetings, or a total of four regular meetings in any calendar year, without the consent of the board or committee duly recorded in the minutes, they shall thereupon cease to hold office. This action will commence immediately and does not require Board, Commission, or Committee action if all conditions of this section are met. Meetings that are canceled do not apply to this section.

Revised 02-19-25

11.3 Appointments to Community Organizations

- A. At the first meeting of the year, each Council Member will be appointed to various Boards, Commissions, Committees, and Community Organizations and will serve a term of one year. Upon the expiration of that term, the appointee may choose to serve on the Board, Commission, Committee, or Community Organization to which they were appointed or choose a different Board, Commission, Committee, or Community Organization. All Council Members are encouraged to serve on at least one Board, Commission, Committee, or Community Organization as a Council Representative.
- B. If a Council Member is unable to serve due to health reasons, personality conflict or an ongoing Conflict of Interest, the appointment may be transferred to another Council Member for the remainder of the term.

Revised 02-19-25

Revised 02-19-25

11.4 Qualifications for Appointment

- A. All members of Boards, Commissions, and Committees shall meet the following minimum qualifications upon their appointment, unless the City Council by a majority vote waives or alters the requirement:
 1. At least twenty-one years of age.

Revised 02-19-25

2. A full-time resident of the City of Litchfield Park for at least two years. Residency will be determined in the same manner as residency is determined for purposes of voting in City elections.

Revised 02-19-25

- B. City employees or appointed officers shall not be eligible for appointment to any Board, Commission, or Committee, but may be requested to provide support thereto. Council Members may serve on Boards, Commissions, or Committees, unless provided otherwise.
- C. Any relative of a current Board, Commission or Committee member shall not be eligible for appointment to the same Board, Commission, or Committee during the term of the sitting member on the same Board, Commission or Committee. A relative may be appointed to a Board, Commission or Committee other than one their relative is appointed to.

Revised 3-20-24

11.5 Term, Vacancies, and Removal

- A. All members of the City's Boards, Commissions, and Committees shall serve at the will of the City Council and any Board, Commission, or Committee member may be removed by the City Council.

Revised 02-19-25

- B. A vacancy on a Board, Commission, or Committee shall be deemed to have occurred upon the following:

1. Death or resignation of a member of a Board, Commission, or Committee.
2. A member ceasing to be a City of Litchfield Park resident.
3. Three consecutive unexcused absences by a member from Board, Commission, or Committee meetings.

- C. Terms of any Board, Commission or Committee member shall be staggered terms not to exceed two - 4-year terms, except as otherwise provided by law. Selection of the Chair of each Board, Commission, or Committee shall occur every two years. A person may be reappointed after the lapse of one (1) year of completing their term.

Revised 02-19-25

11.6 Applicability of Arizona's Open Meeting Law and Conflict of Interest Law

All Boards, Commissions, and Committees are subject to the Arizona Open Meeting Law and Conflict of Interest Law.

11.7 Agenda Item Submittal for Board and Commissions Regular and Special Meetings and Work/Study Sessions

- A. Items may be placed on a Regular, Special or Emergency Meeting Agenda or Work/Study Session Agenda for Board or Commission discussion and possible action by (i) City Staff, (ii) Chairperson, or (iii) two Board, Commission, or Committee Members.
- B. Contracts, ordinances, resolutions, and other documents requiring review by the City Attorney shall be provided to the City Attorney by Staff prior to placing the item on the Agenda and in sufficient time for legal review.
- C. Any item placed on an agenda must be accompanied by supporting documents and a Commission Communication completed by Staff that contains, at a minimum, the following information:
 - 1. Background information on the item;
 - 2. Financial impact if approved; and
 - 3. Proposed action.

The Financial Impact on any agenda item, if there is one, shall be provided by Staff. The documents and Commission Communication must be submitted no later than 7 days prior to the meeting to be included in the packet.

- D. Board and Commission packets contain the Agenda, unapproved Minutes of previous Board or Commission Meetings, Commission communications, and any items to be acted upon including Staff Reports and other documentation that may be attached to support items contained on a Board or Commission Agenda for all noticed meetings of that Board or Commission.
- E. Full packets for ALL noticed Board and Commission Meetings (except Executive Session documentation) are delivered to Board and Commission Members electronically. Full packets will be delivered to Board and Commission Members and Staff no later than the Friday prior to each Regular Board or Commission Meeting. The posting of the agenda will occur not less than 24 hours prior to any Regular Meeting.

Revised 5-17-23

11.8 Definitions

11.8.1 Relatives

- A. An appointee's parent, spouse, child, brother or sister, grandparent, or grandchild, whether related by blood, adoption, or marriage (in-laws).

Revised 3-20-24

Section 12 Council and Candidate Relations with City Staff

12.1 Use of City Staff

No Council Member shall request any staff project without first seeking approval of the City Manager.

Section 3-2-1 F Council to Act Through Manager of the City Code: Except for the purpose of inquiry, the council and its members shall deal with the administrative branch solely through the manager, and neither the council nor any member thereof shall give orders to any subordinate of the manager either publicly or privately.

However, by Council action, individual Council Members may be assigned specific administrative duties. In such cases, the city manager shall make provisions for the appropriate staff members to work with such Council Members. Specific authority and responsibilities shall be defined by the council. The city manager shall be kept informed regarding the administrative actions in the same manner as with any staff person and shall work with the Council Member to prevent duplication of effort or conflict of responsibility.

12.2 Information Provided to All Candidates

- A. For purposes of these Rules of Procedure, City Council “candidates” shall be those who qualify as candidates when the nominating period closes. For purposes of these Rules of Procedure, the time period between when nominations close and the final election shall be known as the “Campaign Period.”
- B. Once the candidates, including incumbents running for re-election, have been identified, all candidates shall receive Council Packets for each City Council Meeting that is scheduled during the Campaign Period.
- C. During the Campaign Period, when one candidate submits a public information request to the City, all of the other candidates shall be notified that the request has been made and, if the information is provided to the requestor, shall be afforded the opportunity to request and obtain the same information.

12.3 Staff Communications Through City Manager

At all times all formal communications by City Council Members to City Staff shall be made through the City Manager.

12.4 Staff Communications Through City Clerk

During the Campaign Period, all communications to City staff regarding the pending election by City Council Members running for re-election and candidates to City Staff shall be made through the City Clerk, and the Clerk shall notify all other candidates of each communication. This provision shall not preclude a Council Member speaking directly to the City Manager regarding any matter related to City business.

12.5 Prohibition Against Using City Resources For Election

Pursuant to A.R.S. § 9-500.14, no City Council Member or other representative of the City may use City personnel, equipment, materials, buildings or other resources for the purpose of influencing the outcome of an election.

Section 13 City Line

13.1 Submittal of Articles

The City publishes a newsletter known as the *City Line* that is distributed to residents of the City. Council Members may submit articles for inclusion in *City Line* in accordance with this section.

13.2 Rules Governing Content of Council Member Articles

- A. Articles should be limited to 750 words or less.
- B. Articles shall address community issues. Regardless of whether the Council Member is in a minority position on an issue, the Council Member's right to be heard shall be paramount.
- C. Articles shall not disparage other Council Members or contain negative comments regarding other Council Members' positions.
- D. Articles shall not include the name of any Council Member (other than the author), nor shall any article include details sufficient to identify any Council Member.
- E. Articles shall not express the desires or feelings "of the City Council" regarding an issue unless the City Council has taken a vote on the issue, in which case, the article shall refer to the vote taken by the Council on the issue.
- F. At the beginning of each article, in bold capital letters, the following statement shall appear:

THE FOLLOWING ARTICLE IS THE OPINION ONLY OF THE AUTHOR. IT MAY NOT BE THE OPINION OF THE CITY COUNCIL, NOR IS IT NECESSARILY THE OFFICIAL POSITION OF THE CITY.

Section 14 Use of Personal Computers and Personal Electronic Devices For City Business

14.1 Definitions

- A. Personal Computers (PCs) means home, business, and lap top computers not owned by the City.

- B. Personal Electronic Devices or (PEDs) means cell phones, tablets, laptops, smart watches, e-readers and any other equipment capable of sending or receiving electronic messages.

Revised 02-19-25

14.2 Public Access and Storage

- A. The City cannot guarantee that PCs and PEDs used by City Council Members in conducting City business will be protected from public access. All public records are subject to public records requests. In addition, e-mails, and other documents related to City business not otherwise classified as public records may be subject to discovery orders in litigation.
- B. City Council Members who send e-mails related to City business from PCs or PEDs shall copy the e-mail to their respective Litchfield Park e-mail address each time an e-mail is sent. City Council Members who receive e-mails related to City business shall forward the e-mail to their respective Litchfield Park e-mail address each time an e-mail is received.
- C. The City shall maintain a repository for all e-mails that are received or sent by City Council Members for the time prescribed by law. The repository will be subject to public records, discovery, and other lawful requests. The City does not have resources to delete personal comments from e-mails. City Council Members shall have no expectation of privacy with respect to the contents of e-mails copied to or forwarded to the repository.
- D. E-mails and documents related to City business shall be retained on PCs and PEDs only for such time as needed and may be deleted from PCs and PEDs after they have been copied to or forwarded to their respective Litchfield Park e-mail address.

Section 15 Council Budget

15.1 Adoption of City Council Budget

The annual budget for the City adopted by the Council will contain a line item designated for Council Members' expenditures. This line item shall be the maximum amount that may be reimbursed to or expended by individual Council Members pursuant to this section. This line item is a part of the approved City Council Budget.

15.2 Use of Budgeted Funds; Procedures

- A. The Council budget may be used only for expenses incurred by individual Council Members for participation in social, recreational or business activities and events at which a Council Member is representing the City in the Council Member's official capacity.

- B. The Mayor may spend up to \$1,000 per year and each Council Member may spend up to \$300 per year from the line item designated for Council Members' expenditures for the purposes set forth in Paragraph A without prior approval of the Council. Expenditures exceeding such amounts require prior approval of the Council. If the Mayor or Council Members spend less than such amounts in a year, the balance shall not be carried over to the next fiscal year.

Revised 02-19-25

- C. In order to receive reimbursement for amounts expended for participation in activities or events described in Paragraph A, a Council Member shall submit a receipt(s) to the Finance Director showing the amount expended and the purpose of the expenditure. If no receipt was received for the expenditure, reimbursement may be given if satisfactory evidence of the expenditure is submitted to the Finance Director. If there is uncertainty regarding whether the expenditure is an expense for which the Council Member may be reimbursed pursuant to this section, the Finance Director shall obtain approval from the City Manager prior to providing reimbursement to the Council Member.

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**RECREATION AND PUBLIC
GROUNDS COMMISSION
COMMUNICATION**

**Business Item V.C
Yard of the Quarter Selection**

To: Recreation and Public Grounds Commission Members
From: Krysten Giordano, Commission Member
Meeting Date: 9/10/2026

RECOMMENDED MOTION:

N/A

BACKGROUND/DISCUSSION:

Commissioner Krysten Giordano will propose the Yard of the Quarter recipient for 2026 Q3. There were three nominated homes:

- 185 E Estero Ln
- 820 E Fairway Dr
- 207 N Neolin Ave

STAFF RECOMMENDATION:

N/A

FINANCIAL IMPACT:

None

ATTACHMENTS:

1. Yard of the Quarter Nominations - 2026 Q3

Yard of the Quarter Nomination

185 E Estero Lane



Yard of the Quarter Nomination

820 E Fairway Dr



Yard of the Quarter Nomination

207 N Neolin Ave





**RECREATION AND PUBLIC
GROUNDS COMMISSION
COMMUNICATION**

**Business Item V.D
Make A Difference Day 2026**

To: Recreation and Public Grounds Commission Members
From: Tricia Kramer, Community and Recreation Services Director
Meeting Date: 9/10/2026

RECOMMENDED MOTION:

LEFT TO THE COMMISSION'S DISCRETION

BACKGROUND/DISCUSSION:

National Make a Difference Day takes place on the 4th Saturday of October each year. This year's date is October 24, 2026. Staff have identified several possible cleanup projects around the city that volunteers could help with that day. This would be similar to the annual Orange Tree Painting event. Staff is seeking the Commission's input on the project selections and asking the Commission to consider taking the lead on this volunteer event.

STAFF RECOMMENDATION:

Staff recommends moving forward with a RPG-led project for Make A Difference Day 2026.

FINANCIAL IMPACT:

None at the time.

ATTACHMENTS:



**RECREATION AND PUBLIC
GROUNDS COMMISSION
COMMUNICATION**

**Business Item V.E
Capital Improvement Projects
related to Recreation and Public
Grounds**

To: Recreation and Public Grounds Commission Members
From: Tricia Kramer, Community and Recreation Services Director
Meeting Date: 9/10/2026

RECOMMENDED MOTION:

N/A

BACKGROUND/DISCUSSION:

At the August 13, 2026 meeting, the Commissioners requested that a discussion about capital improvement projects related to Recreation and Public Grounds matters be placed on the next agenda. Staff will update the Commissioners on capital improvement projects that are on the current 5-year plan. The Commissioners may also suggest projects that they would like to see added to future plans. No decisions will be made during this discussion.

STAFF RECOMMENDATION:

None

FINANCIAL IMPACT:

None

ATTACHMENTS: