

# Open Meetings Desk Reference

## Application to Cities

The open meetings law (*Code of Iowa*, Chapter 21) applies to meetings of governmental bodies which are defined as “a board, council, commission, or other governing body of a political subdivision or tax-supported district...” It further applies the law to “an advisory board, advisory commission, advisory committee, task force, or other body created by statute or executive order of this state or created by an executive order of a political subdivision of this state to develop and make recommendations on public policy issues.”

## What is a meeting?

The open meetings law defines a meeting as “a gathering in person or by electronic means, formal or informal, of a majority of the members of a governmental body where there is deliberation or action upon any scope of the governmental body’s policymaking duties.” Meetings do not include a gathering of members of a governmental body for purely ministerial or social purposes when there is no discussion of policy or no intent to avoid the open meetings law.

## Public Notice

Cities must give public notice of its meetings that include the time, date and place of each meeting and the tentative agenda. The agenda and agenda items should be detailed enough to allow the public to determine what is being discussed. If in doubt, give more rather than less information.

## E-Mail and Open Meetings

Iowa law requires that the city’s business be conducted at a properly noticed meeting. E-mail communication should be used with caution, and at no time should a majority of a governmental body deliberate outside of an officially noticed meeting by e-mail, in person or by any other method of communication.

## 24 Hour Rule/Emergency Meetings

With very few exceptions, notice must be given at least 24 hours prior to a meeting. Post the notice on a bulletin board or other prominent place easily accessible to the public at the city’s principal office. If there is no city hall, the notice should be posted where the meeting will be held. The city also needs to advise any media which have filed a request for notice. If a situation requires a meeting with less than 24 hours notice, give as much notice as possible. The city must justify its reason for not giving 24 hours notice in the minutes.

Potential loss of life, property and significant resources are appropriate reasons for holding a meeting on short notice.

## Amending the Agenda

While the council can amend the agenda to delete items or rearrange its order; it is not advisable to amend the agenda to add new items after the agenda has been posted and less than 24 hours remain before the

start of the meeting. However, if an item is added to the agenda with less than 24 hours notice the addition needs to be clearly justified in the minutes, and the reason should meet the requirements for an emergency meeting.

## Closed Sessions

Code Section 21.5 authorizes governmental bodies to close a meeting “only to the extent a closed meeting is necessary” and only for lawful reasons. The meeting agenda should identify the item(s) that could include a closed session and cite the proper Code section allowing the closed meeting. The meeting must begin in open session with a call to order and a roll call. To go



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into closed session, there must be a motion to hold a closed session that is approved by two-thirds of the members or all those present. The minutes must record the votes of individual members on the question of holding a closed session and who the council has invited to attend. Both the motion and minutes must state and describe the exemption under Section 21.5 that permits a closed session. Once in closed session, the council must not discuss any topic that does not directly relate to the reason for the closed session.

### **Common Reasons for Closed Sessions** **[Full list can be found at 21.5(1)]**

- To discuss records that are required to be kept confidential by a state or federal law. [21.5(1)(a)]
- To discuss strategy *with legal counsel* in matters that are presently in litigation or where litigation is imminent and where its disclosure would be likely to prejudice or disadvantage the government. [21.5(1)(c)]
- To discuss law enforcement strategies and investigations in order to avoid disclosure of specific law enforcement matters where disclosure would enable law violators to avoid detection or facilitate disregard of requirements imposed by law. [21.5(1)(g)]
- To evaluate the professional competency of an individual whose appointment, hiring, performance or discharge is being considered, and when necessary to prevent needless and irreparable injury to that individual's reputation *and that individual requests a closed session.* [21.5(1)(i)]
- To discuss purchase or sale of real estate. The preliminary discussion of purchasing or selling a particular property where the premature disclosure could be expected to increase the price. Minutes and recording of the closed session are available after the transaction is completed. [21.5(1)(j)]

### **Procedure Following a Closed Session**

The council must return to open session to take final action on a measure discussed in closed session. Minutes and recordings from the closed meeting must be sealed and kept for at least a year and may not be opened except by order of the council, a court or in extremely limited circumstances by the State Ombudsman. At the end of any closed session remind members to maintain confidentiality of the proceedings.

### **Violations**

The city bears the burden of proving that a meeting was not in violation of the law. Each member who simply participated in the violation can be assessed a \$100 to \$500 fine. For knowingly participating in the violation, members must be assessed \$1,000 to \$2,500. Individual members of the council may escape liability if the person reasonably relied upon a decision of a court, formal opinion of the IPIB, attorney general or city attorney or voted against going into closed session. Other consequences can include removal from office, invalidation of council actions and payment of costs and reasonable attorney fees to the party who successfully established in court a violation of the law. Ignorance of the law is not a defense.

### **Iowa Public Information Board (IPIB)**

IPIB is an independent state agency designed to provide information and training on open-records and open-meetings laws to government entities and Iowa residents. IPIB also receives and investigates complaints and can resolve disputes through a process of remediation. The board's jurisdiction is limited to issues involving open meetings and public records, and complaints must be filed within 60 days of the alleged violation. Learn more: [www.ipib.iowa.gov](http://www.ipib.iowa.gov) | [IPIB@iowa.gov](mailto:IPIB@iowa.gov) | 515-725-1781.

- *If there are specific legal questions about open meetings requirements, the city should contact the city attorney.*

**The Iowa League of Cities serves as the unified voice of cities, providing advocacy, training and guidance to strengthen Iowa's communities.**



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