

# OPEN MEETING LAW

A.R.S. § 38-431.01

A person elected to a City Council shall review the open meeting law materials at least one day before the day that person takes office.

# ARIZONA AGENCY HANDBOOK BY THE ATTORNEY GENERAL





## WEBSITE

[https://www.azag.gov/sites/default/files/docs/agency-handbook/2018/agency\\_handbook\\_chapter\\_7.pdf](https://www.azag.gov/sites/default/files/docs/agency-handbook/2018/agency_handbook_chapter_7.pdf)



# **BASICS OF THE OPEN MEETING LAW**

City Council cannot make any decisions or discuss the business of the council except in a meeting that is open to the public.



# CREDIT

The Summary is taken from  
Liz Hill's Open Meeting Law 101  
Assistant Ombudsman

<https://www.azoca.gov/wp-content/uploads/Open-Meeting-Law-101.pdf>



# CREDIT

The Summary is also taken from  
You as a Public Official

By the League of Arizona Cities  
and Towns

<http://www.azleague.org/ArchiveCenter/ViewFile/Item/384>



**CAUTION:  
EVEN EMAIL, SOCIAL MEDIA,  
CONFERENCE CALLS CAN BE A  
MEETING**

A meeting is a gathering of a quorum either in person or by means of technology at which they discuss, propose, or take action, including deliberation on city business. **No polling or serial discussions by any means about city business.**

A.R.S. § 38-431(4)



**CAUTION:  
IN AN OPEN MEETING, STICK TO  
THE NOTICED AGENDA**

The Agenda informs the public of the matters to be discussed and decided and it is noticed on the website and city bulletin boards at least 24-hours in advance of the meeting.

A.R.S. § 38-431.09 and .02(G)



# THE PUBLIC'S RIGHTS

The public has the right to

- View and Listen
- Video or Audio Record
- Photograph

But does not have the right to disrupt

**(The right to speak is limited to when the chair calls upon the public to speak. A public meeting is not a free speech forum.)**



# CALL TO THE PUBLIC

- Calls to the public are permitted, but not required.
- “Call to the Public” is an item on the Agenda.
- Council may set & announce ground rules:
  - civility,
  - clean language ,
  - treat everyone the same ,
  - limit speaker’s time,
  - require speakers on the same side to select a spokesperson and then only hear from those with different comments from the spokesperson



# EXECUTIVE SESSION

Council may hold private executive sessions under a 7 limited circumstances. In executive sessions, the public is not allowed to attend or listen to the discussions, and the Council is not permitted to take final action.

Council may not vote or take a poll in executive sessions. But on some of some of the 7 topics Council may direct the City Attorney

A.R.S. § 38-431.03(D).



# CONFLICTS OF INTEREST

It isn't a violation to have a conflict of interest, but it is a crime

**(1) not to disclose** them and

**(2) not to refrain from participation in the matter (no discussion, influence nor vote).**

How to disclose:

They may be disclosed in an open meeting verbally or provided to the City Clerk in writing.

# IMPORTANCE OF CONFLICTS OF INTEREST

- It is a crime not to disclose and not refrain from participation in a decision that would involve the conflict of interest
- Penalty
  - Class 6 Felony to intentionally and knowingly conceal or fail to disclose the conflict of interest.
  - Automatic forfeits office
  - Class 6 Misdemeanor to negligently or recklessly conceal or fail to disclose the conflict of interest.
- Those affected by a decision where conflict of interest is alleged may sue.
- The action taken or law passed may be voided.



## **CONFLICTS OF INTEREST CONTINUED**

### Definition

A substantial (not remote) direct or indirect interest that is nonspeculative pecuniary (money) or proprietary.



# CONFLICTS OF INTEREST CONTINUED

## Definition Continued

Your interest or the interest of your grand parents, parents, siblings (and their spouses), children, grandchildren, spouse (and your spouse's parents or siblings, or children)



## CONFLICTS OF INTEREST CONTINUED

A “**remote interest**” is defined by ARS § 8-502(10). If the interest falls into one of the “remotes interests” is not a *legal* conflict of interest. There are a long list of remote interests – Please see separate attachment.



## **CONFLICTS OF INTEREST CONTINUED**

The City Attorney may be asked to make a determination in writing as to whether there is a legal conflict of interest and the Council Member may rely on the determination without liability.