



Chandler • Arizona

**City of Chandler
Boards and Commissions**

Boards and Commissions Handbook



BOARD AND COMMISSION HANDBOOK

PREFACE

This Board and Commission Handbook has been developed to provide guidelines and assist new and continuing Board and Commission members to better understand the general principals and operating issues of membership. This information is designed to closely follow the rules and regulations that apply to the City Council. Boards and Commissions vary in their authority and power, and members are encouraged to review the specific responsibilities for the Board or Commission to which they have been appointed.

Suggestions, improvements, and questions regarding this handbook should be directed to the City Clerk at (480) 782-2181.

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Congratulations on being appointed as a City of Chandler Board or Commission member!

Mayor Tibshraeny and the Chandler City Council thank you for your active participation in the governing process of our community. As a citizen volunteer serving on a Board or Commission you are a member of a very select group. Citizen input and participation, such as yours, is a valuable asset to any government organization and assists the City Council with its goals and decision-making, thereby benefiting the community as a whole.

Being a Board or Commission member is often demanding, as it takes a substantial commitment of time and hard work, but it will be an exciting and rewarding experience as you help shape the future of our community. We hope that this Board and Commission Handbook will help prepare you in serving as a member of the City of Chandler's Boards and Commissions program.

Mayor and City Council



City Council, back row from left

Councilmember Sam Huang, Councilmember Terry Roe,
Councilmember Mark Stewart, Councilmember René Lopez

Front row from left

Councilmember Kevin Hartke, Mayor Jay Tibshraeny, Vice Mayor Nora Ellen

SECTION 1 – GENERAL

Chandler History

The Chandler community was founded by Dr. A.J. Chandler on May 17, 1912. In 1920 the town's first Charter was drafted and the citizens voted to incorporate and become the Town of Chandler. In 1954 the status of Chandler was upgraded from town to City. On May 25, 1964, the Code of the City of Chandler containing the Charter and the General Ordinances of the City was adopted.

Council – Manager Form of Government

The City of Chandler operates under a Council-Manager form of local government. Under this model the Mayor and Council provide leadership and formulate the laws and general policies of the City. The Council appoints a professional manager to serve as the chief administrative officer. The City Manager is responsible for implementing Council policies, managing the staff, preparing the annual budget, and other responsibilities as authorized by the Council, the Charter, or by Ordinance.

City Council

The City Council consists of a Mayor and six Councilmembers who are elected from the city at large by the qualified electors of the city. Only qualified electors of the city shall hold the office of mayor or councilmember. Each candidate must have been a resident of the city or an annexed area for at least two years immediately preceding his or her election. [Chandler City Charter, Article II, Section 2.01(a)and(b)]

Policy making and all other powers of the city shall be vested in the council, except as otherwise provided by law or the charter, and the council shall provide for the performance of all duties and obligations imposed on the city by law. [Chandler City Charter, Article II, Section 2.04]

Term of Office

The term of office of the mayor and councilmembers shall be for a period of four (4) years or until their successors are elected and qualified. No person shall be eligible to the office of councilmember for more than two (2) consecutive terms or to the office of

mayor for more than two (2) consecutive terms, or to more than a consecutive combination of the same. A person elected to two (2) consecutive terms as a councilmember or two (2) consecutive terms as mayor or a combination of the same shall not be eligible to hold either office again until four (4) years have elapsed. [Chandler City Charter, Article II, Section 2.01(c),(d)and(e)]

Vice Mayor

Within thirty-one (31) days after taking office, each council shall elect from its members a vice mayor who shall act as mayor during the temporary absence or disability of the mayor. [Chandler City Charter, Article II, Section 2.03(b)]

Appointed Officials

City Manager

The City Manager is the City's administrative head and is directly responsible to the City Council. The City Manager implements Council policies and directives and makes recommendations to the Council on measures necessary for the efficient and effective operation of municipal services. It is the Manager's responsibility to direct the preparation of the City's annual budget and submit it to the Council for approval. In addition, the City Manager oversees the day-to-day operation of the City and directs the activities of City employees.

City Attorney

The City Council appoints the City Attorney who serves as chief legal advisor to the council, the manager, and all city departments, offices and agencies. The City Attorney represents the City in all legal proceedings, performs any other duties prescribed by the Charter, law, or by ordinance; and shall furnish to the Council and City such written legal opinions concerning matters which are in the City's interest.

City Clerk

The City Clerk is appointed by the City Council. The Clerk conducts City elections and maintains the permanent records of the City, including the City Code and City Charter, and oversees the City's Records Management Program. The City Clerk administers the City's Board and Commission program and maintains membership rosters for the City's Boards and Commissions.

City Magistrate

The City Council appoints the City Court Magistrate, who is the presiding officer over the court. The City Magistrate's term is two (2) years, and can be removed by the Council for cause. Reappointment of the magistrate is at the pleasure of the Council.

City of Chandler Mission and Values

Vision, Values, and Leadership Philosophy

Our vision is to make Chandler a world-class City by delivering outstanding public services, creating a unique community, and ensuring an exceptional quality of life.

Excellence is the responsibility of everyone at the City of Chandler. We lead by our core values in constant pursuit of excellence.

- Commitment
- Communication
- Diversity
- Innovation
- Integrity
- Personal Responsibility
- Respect
- Teamwork

We believe Chandler employees and citizen volunteers are talented, motivated, trustworthy and committed to excellence in public service. We value personal responsibility, diversity, integrity and initiative. Together, we will foster a culture that encourages open communication, innovation, shared leadership, teamwork, respect and mutual support.

SECTION 2 – BOARDS AND COMMISSIONS

Creation

Article VI of the Chandler City Charter authorizes the council, by ordinance, to create such boards, commissions, or citizens' committees as in its judgment are required, and may grant to them power and duties as are consistent with the provision of the Charter. The Council may also abolish any board or commission not specifically required by law.

A listing with information about each of the City's Boards and Commissions is provided at <http://www.chandleraz.gov/default.aspx?pageid=246>

Selection

Citizens who wish to serve on a Board or Commission must submit an on-line application. <https://www.chandleraz.gov/bdapp/>

The Mayor and Council Assistant coordinates Board and Commission appointments and works with the City Clerk in obtaining a list of vacancies, applications, and contact information for Board and Commission members. The Mayor reviews each Board and Commission vacancy and makes nominations as necessary.

Applications are kept on file for two years. After that time, an applicant will need to re-apply if there is continued interest in serving. All information submitted in an application for appointment to any City Board or Commission is public record and is subject to disclosure in response to a public records request.

Appointment

The Mayor shall nominate all Board and Commission members with the approval of the Council; provided that no nomination shall be made unless the name of the nominee shall have been submitted to the Councilmembers not less than seven (7) days prior to the meeting at which his nomination is to be considered. City Councilmembers may be appointed to serve on a city board or commission in an ex-officio, nonvoting capacity. [Chandler City Charter, Article VI, Section 6.01(b)]

Term of Office

Terms of office for Board and Commission members shall not exceed three (3) years. [Chandler City Charter, Article VI, Section 6.01(c)]. After the initial term limit, members may be appointed for additional terms; see each individual Board or Commission for specific requirements.

Note: Some Boards or Commissions may have a longer term limit; see each individual Board or Commission for term limit.

Most of the boards require the members to be a resident of Chandler for at least a year, a registered voter and be committed and able to attend the meetings (see each individual Board or Commission for the requirements). Terms for most Board and Commission members expire on May 1.

Attendance at Meetings

Any member of any Board or Commission shall forfeit office if he or she fails to attend three (3) consecutive regular meetings without being excused by the Board or Commission.

SECTION 3 – ROLES AND RESPONSIBILITIES

Boards and Commissions vary in their authority and power, and members are encouraged to review the specific responsibilities for the Board or Commission to which they have been appointed.

A Board or Commission Member shall

- Regularly attend meetings
- Communicate to the Staff Liaison and/or Chair when unable to attend a meeting
- Prepare for meetings by reviewing meeting agendas, packets, and related materials prior to the meeting
- Become educated on policies, codes, and procedures that apply to the Board or Commission
- Treat citizens, applicants, elected officials, other members, and staff with respect
- Dress and behave in a professional manner in public meetings
- Comply with the Open Meeting Law
- Declare conflicts of interest that may occur and submit a completed Conflict of Interest form to the Staff Liaison
- Resign from the Board or Commission at the point the member no longer qualifies to serve on the Board or Commission

The Chairperson shall

- Fulfill the responsibilities of a Board or Commission Member
- Coordinate with the Staff Liaison on meeting agendas, meeting dates, and other logistical issues
- Serve as the presiding officer and facilitate public meetings
- Communicate meeting processes to the public and Board and Commission members
- During the meeting, encourage discussion among Board or Commission members and give all members an opportunity to speak, in a fair and orderly manner
- Keep discussion and the meeting on track
- Ensure that all meeting participants are treated with respect
- Sign official minutes of the Board or Commission, immediately following approval

The Vice-Chair shall

- Fulfill the responsibilities of a Board or Committee member
- Assume the duties of the Chair during his or her absence

The Council shall

- Establish Boards or Commissions they deem appropriate to guide, advise, and/or implement policies in the community
- Establish rules and regulations governing Boards and Commissions
- Ratify the By-Laws of Boards and Commissions
- Implement processes for recruiting, selecting, and appointing Board and Commission members
- Select and appoint Board and Commission members
- Remove Board or Commission members when necessary

The Staff Liaison shall

- Provide Board or Commission members with codes, by-laws, membership lists, or other documents needed to fulfill their duties
- Educate and provide guidance on policies, codes, and procedures that apply to the Board or Commission
- Mentor the Chair and Vice-Chair so they understand and perform their responsibilities
- Provide guidance as appropriate to Board and Commission members
- Prepare Board or Commission agendas, staff reports, and related materials
- Submit all agendas to the City Clerk's Office by noon on the Thursday prior to the scheduled meeting
- Record official minutes of the Board and Commission meetings
- Send results and draft minutes to the City Clerk's Office for posting on the website within three (3) working days of all meetings
- Ensure the original signed copy of the official minutes are forwarded to the City Clerk's Office upon approval of the Board or Commission for posting on the website within two (2) working days of approval
- Ensure that the original agenda packets along with any notes are forwarded to the City Clerk's Office
- Maintain official City records for the Board or Commission, excluding the official minutes, agendas, agenda packets, and conflict of interest forms maintained by the City Clerk
- Communicate statutory requirements with guidance of the City Attorney, when appropriate, and ensure compliance with the law
- Ensure compliance with the Open Meeting Law
- Obtain Conflict of Interest forms from Board or Commission members who declare a conflict of Interest and submit completed forms to the City Clerk
- Consult with the City Attorney or City Clerk, as appropriate, to obtain guidance related to the Open Meeting Law, Conflict of Interest, Public Records, and other requirements

- Monitor Board and Commission attendance at meetings for compliance
- Notify the City Clerk's Office of any Board or Commission Member whose absence exceeds acceptable standards
- Notify the City Clerk's Office with any changes to the meeting schedule or agenda (i.e. date, time, location changes)

The City Clerk shall

- Work with the Mayor and Council Assistant on the Board and Commission appointment process
- Inform the Staff Liaison following appointment of Board and Commission members
- Coordinate and schedule annual and/or other training of Boards or Commission members as directed by Council
- Provide guidance and response to questions from the Staff Liaison or Board or Commission members regarding requirements of the Open Meeting Law, Conflict of Interest, and Public Records
- Respond to inquiries from the public, elected officials, and staff on Boards and Commissions
- Notify Board and Commission members of removal from office
- Notify the Council of Boards and Commission members removed
- Monitor the City's website to verify that agendas and minutes of Boards and Commissions are posted
- Periodically review and provide feedback to the Staff Liaison on agendas and minutes to insure documents meet the requirements of the Open Meeting Law

Use of Staff

Board or Commission members do not have authority over the work program of City staff. Rather, the Staff Liaison acts as an information resource and provides technical assistance. Board or Commission members may not direct City staff in the performance of their Board or Commission related activities, nor can they assign projects or direct the work of staff. A Board or Commission member may request staff's assistance on various projects; however, the City Manager must approve all requests which create a substantial demand for a work product.

SECTION 4 – MEETINGS

Board and Commission Meetings

The Board or Commission shall meet regularly as determined by the individual board or commission, or in accordance with the adopted by-laws of the specific board or commission. Special meetings for any purpose may be held on the call of the Chair or the request of two or more members, all at least twenty-four (24) hours before the meeting. All meetings shall be in public.

Notices of meetings will include the time, place, and agenda of the business to be transacted. All agendas are posted in the official posting locations and on the City of Chandler website in accordance with the Open Meeting Law at least twenty-four (24) hours prior to the meeting.

Study Sessions

Some Boards or Commissions may find a need to hold a study session meeting in addition to its regular meeting. Study Session meetings are held when it is necessary to study or discuss a topic at length in order for the members to get a better understanding of a topic that may be voted on at a later date. Study Session meetings are subject to the open meeting law and are required to be held in public. A request for a study session meeting is made to the Staff Liaison who will check the individual Board or Commission's Bylaws to determine if study session meetings are allowed for a particular board or commission.

Executive Sessions

The Board or Commission may request through the Staff Liaison that the City Attorney schedule an executive session closed to the public during a regular or special meeting. A review of the individual Board or Commission's Bylaws will be made in order to determine if executive sessions are allowed for a particular board or commission. If allowed, the City Attorney shall schedule the executive session only upon determining that the matter is authorized to be discussed in executive session pursuant to the laws of the State of Arizona and the Chandler City Charter.

Agendas and Agenda Packets

An agenda is prepared and posted for all meetings. Meeting packets are prepared and distributed prior to a meeting, which may include staff reports and related materials to assist Board or Commission members in preparing for the meeting. Written notice of all meetings to Board or Commission members shall be emailed or delivered in person at least twenty-four (24) hours before the date of the meeting.

Presiding Officer Duties

The Chair shall preside at all meetings and hearings of the Board or Commission, decide all points of order and procedure, and perform any duties required by law, ordinance, or by-laws of the specific board or commission. The Chair or, in his or her absence, the Vice-Chair shall call the Board or Commission to order at the scheduled meeting time.

Roll Call

Before proceeding with the business of the Board or Commission, a call of the roll of the members shall be taken, and the names of those present shall be entered into the minutes.

Meeting Attendance by Telephone

Members of the Board or Commission may attend a meeting by telephone if they are too ill to attend in person, or are out of town. It is preferred that members will provide the Staff Liaison with at least a twenty-four (24) hour notice of their intent to attend a meeting by telephone. In no event shall more than two (2) members attend a meeting by telephone. If more than two (2) members request to attend a meeting by telephone it will be the first two members that made the request that will be allowed to attend by telephone. When a Board or Commission member attends a meeting by telephone, the Chair shall state for the record the member who is attending the meeting by telephone.

NOTE: Telephone attendance is contingent on the logistics of the meeting venue.

Quorum

A majority of the members of the Board or Commission shall constitute a quorum for transacting business at any meeting. No action shall be taken at any meeting in the absence of a quorum, except to adjourn the meeting to a subsequent date.

Official Minutes and Legal Actions

Official minutes are prepared for all Board and Commission meetings, including Subcommittees of Boards and Commissions. The official minutes must include the date/time/place, members present or absent, a general discussion of the matters discussed, and an accurate description of any actions taken. Upon approval and

execution of the official minutes, the Staff Liaison is required to immediately submit original minutes of the Board or Commission meeting to the City Clerk for posting. The City Clerk retains the official minutes as a permanent record.

Subcommittees

Subcommittees and other committees formed or appointed by a Board or Commission to make recommendations to the Board or Commission must comply with the Open Meeting Law. A review of the individual Board or Commission's Bylaws will be made in order to determine if Subcommittees are allowed for a particular board or commission.

Other Gatherings

On occasion, a quorum of a Board or Commission may attend a conference, social event, or similar activity. Board and Commission members must exercise extreme caution to ensure violations of the Open Meeting Law do not occur. These events are not meetings as defined by the Open Meeting Law and are not posted as a meeting.

SECTION 5 – ORDER OF BUSINESS

Parliamentary Procedure

The rules of parliamentary practice, comprised in Roberts Rules of Order, latest edition, shall govern the Board or Commission in cases which are applicable, provided they are not in conflict with these Rules, the By-Laws of the specific Board or Commission, or with the Charter of the City of Chandler.

The Chair shall call the Board or Commission to order and members present or absent shall be recorded. The Chair may call each matter of business in the order filed and shall announce the name of the action, and the nature of their request. Supporting evidence for and against each matter shall be presented to the Board or Commission.

The Chair shall direct questions to any person speaking, in order to bring out all relevant facts, circumstances, and conditions affecting the matter being considered, and then call for questions from other members of the Board or Commission, and from City staff.

Voting

A majority vote of those Board or Commission members present and voting shall be required to take official action, including, but not limited to, the adopting of policy or submitting recommendations. When a motion in favor of any action or other matter fails to receive an affirmative majority vote (or a tie vote) it shall be entered into the minutes as a motion that failed for lack of majority. In the event that there is no motion, or the motion dies for lack of a second, it shall be entered into the minutes as a motion that failed for lack of consideration.

A member shall disqualify himself or herself and abstain from voting whenever he or she has, or may have, a conflict of interest in the action under consideration, as described and provided by Arizona Revised Statute 38-501, et. seq., and Chandler Code, Section 2-4, and successors.

Each member attending shall be entitled to one (1) vote. The minutes of the proceedings shall indicate the vote of each member on every matter acted upon, and

shall indicate any absence or abstention due to conflict. No member shall be excused from voting except on matters involving consideration of his/her own official conduct, or in the case of his or her own conflict of interest.

Motion

A motion to adopt or approve staff recommendations or simply to approve the action under consideration shall, unless otherwise particularly specified, be deemed to include adoption of all proposed findings and execution of all actions recommended in the staff report on file in the matter.

Precedence of Motions

When a motion is before the Board or Commission, no motion shall be entertained except: (1) to adjourn, (2) to fix hour of adjournment, (3) to lay on the table, (4) for the previous question, (5) to postpone to a certain day, (6) to refer, (7) to amend, (8) to postpone indefinitely, or to (9) divide the questions. These motions shall have precedence in the order indicated.

Amendments

No more than one amendment to a main motion is permitted. When an amendment is before the Board, the Board shall vote first on the amendment. After the amendment has passed or failed, the Board or Commission shall vote on the main motion.

Motion to Table

The purpose of this motion is to temporarily by-pass the subject. A motion to lay on the table is non-debatable and shall preclude all amendments or debate of the subject under consideration. If the motion prevails the matter may be "taken from the table" at any time prior to the end of the next regular meeting.

Motion for Previous Question

The purpose of this motion is to close debate on the main motion. It is non-debatable, and no further discussion shall be permitted until the motion is acted upon. If the motion fails, debate is reopened; if motion passes, then the Board or Commission shall vote on the main motion.

Division of Question

If the question contains two or more divisible propositions, the Chair may, or upon successful motion of the Board or Commission, shall divide the same.

Withdrawal of Motion

When a motion is made and seconded, it shall be so stated by the Chair before debate commences. A motion may not be withdrawn by the mover without the consent of the member seconding it.

Conflict of Interest

Board or Commission members are required to vote on all issues placed before them. A

failure to vote or a voluntary abstention shall be counted an “aye” vote unless excused by State Conflict of Interest Laws

Recording Votes; Tie Votes

The Journal of the proceedings of the Board or Commission shall record individual's votes. In the case of a tie in votes on any motion, the motion fails.

Motion to Reconsider

A motion to reconsider must be made by one of the prevailing side, but may be seconded by any member. A question failing by virtue of a tie vote may be reconsidered by motion of any member of the Board or Commission.

It is important to remember that Robert's Rules of Procedure is a guide for conducting the business of a meeting and it is not the law. The only required actions to make an item legal are a motion, a second, and a vote. Within that motion, second, and vote, intent must be clear and those who vote on the matter must clearly understand the intent. Robert's Rules provides formulas for the sequencing of different kinds of motions and an orderly rule for conducting a meeting. However, if a motion is plainly made, a second to the motion is placed on the record, and the voting participants understand the effect of their vote and support the outcome of the motion, it will stand up on its own even if it does not follow the letter of Robert's Rules.

Decorum

By Board or Commission Members

While the Board or Commission meeting is in session, the members must preserve order and decorum. A member shall neither by conversation or otherwise delay or interrupt the proceedings or the peace of the Board or Commission, not disturb any member while speaking, or refuse to obey the orders of the Board or Commission, or its presiding officer.

By Persons

Any person making personal, impertinent, or slanderous remarks, or who becomes boisterous while addressing the Board or Commission, or who interferes with the order of business before the Board or Commission, and who fails, upon request of the presiding officer to cease such activity, shall be barred from further audience before the Board or Commission, unless permission to continue is granted by a majority vote of the Board or Commission.

Conduct

Board and Commission members are representatives of the City. The following information serves as a guide to Boards and Commission members when acting as a representative of the City.

- Act in a professional manner at meetings when representing the City, even when different ideas and opinions are presented.
- Be aware that opinions publicly expressed (to the public, press, stakeholders, etc.) by an individual member reflects only the individual's view, and may not be represented as a Board or Commission statement or position without public posting and opportunity for approval by all Board or Commission members.
- Never use position or information in the performance of duty as a means for making private profit or advancing the financial interest of others.
- Never discriminate unfairly by dispensing special favors or privileges to anyone, whether or not for payment.
- Never accept gifts or benefits that could be construed by reasonable persons as influencing the performance of official duties. Any gifts accepted must be reported.
- Exercise caution to avoid statements being construed as promises or binding upon the duties of the office.
- Avoid negotiations entered into by the City involving the purchase or sale to the City of land, goods, or materials while acting in the capacity of a public official.

SECTION 6 – LAWS

General Information

Public agencies and public officials are bound by stricter standards than the private sector. Preparation for meetings, meeting decisions, discussion items, agendas, and board and commission member conduct are all strictly regulated by state law. These statutes require compliance and they affect all government agencies. Non-compliance or willful disregard of these laws can result in painful consequences.

The most important laws that you will face as a Board or Commission member are Arizona's Open Meeting Law, Conflict of Interest Law, and Public Records Law. Protecting the public and safeguarding the public process is at the core of these laws; because they have a direct bearing on your Board or Commission's activities and your behavior, it is vitally important for you to become familiar with them.

Important Open Meeting Law Guidelines

- If a quorum is not in attendance, by definition, the meeting cannot be conducted. It is important that all, or a majority of, board or commissioner members receive information and engage in discussion at the same time.
- In cases where a quorum is present at the beginning of the meeting but is lost due to attrition during the meeting, the meeting shall be concluded at the time of the departure of the board or commission member whose absence results in the lack of a quorum.
- Practices such as polling individual members to reach a decision prior to the meeting are prohibited.
- If the public body or its presiding officer appoints a subcommittee to study a particular issue, the law also governs the meetings of the committee or subcommittee. This is true regardless of the composition of the committee or subcommittee.
- Discussions held, whether oral, written or via e-mail, by a quorum or more of Board or Commission members would result in a violation of the Arizona's Open Meeting Law.
- To avoid pitfalls associated with Open Meeting Law, information and materials that a board or commission member wishes to share with members of his/her commission should be provided to the Staff Liaison for distribution to the commission at an open meeting or should be distributed by the board or

commission member at an open meeting with sufficient copies for those in attendance.

- Discussion is to be limited to public sessions in keeping with the spirit of the Open Meeting Law. This means that the public's business is to be conducted in public.

Emails and other Communications among Board or Commission Members outside a Public Meeting

Communications can occur among Board or Commission members in a variety of ways in other than a public setting: face-to-face, in writing, over the telephone; and through the use of e-mail. The Attorney General's Office is enforcing the Open Meeting Law to prohibit the use of email between a quorum of the members of a public body where public matters are discussed, considering such email discussion to be a "meeting" held in violation of the Open Meeting Law.

Email (or electronic) communications can constitute a "meeting". When members of a public body begin having discussions by electronic or telephonic communication, it can result in Open Meeting Law violations. Once a board or commission member commits to written form a communication related to commission business, that record no longer belongs to the board or commission member as an individual, but becomes part of the public domain. Anyone involved in sending messages back and forth which even discuss possible action or propose a formal action may be breaking the law—the same as if the board or commission members had met together in a private meeting.

State and Local Laws

Established guidelines and rules are essential to a productive and successful meeting. The Mayor and Council have established a successful format for conducting business at Council meetings, and Boards and Commissions should follow those guidelines in conducting their own meetings. The Council is bound first by the Arizona Revised Statutes, in particular the Open Meeting Law. The Chandler City Charter also establishes rules regarding the conduct and meetings of the City Council and is the local legal authority on several aspects of meeting activity.

By-Laws and Rules of Procedure

A Board or Commission may adopt specific by-laws or special rules as long as these do not conflict with State law, the Charter of the City of Chandler, or City ordinances or policy. By-laws for a particular board or commission must be approved by the City Council. The provisions in this handbook are designed to follow closely the rules and regulations established by the City Council and apply to all Boards and Commissions.

OPEN MEETING LAW FREQUENTLY ASKED QUESTIONS

Arizona's Open Meeting Law states that:

"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. . . ."

1. *What is the Open Meeting Law?*

The policy of the State is that the public's business should be conducted in public. The Open Meeting Law contains the rules that public bodies have to follow to assure that this policy is carried out.

2. *Is my Board or Commission a "public body" under the Open Meeting Law?*

Yes, all Boards and Commissions including Subcommittees appointed by the Mayor and Council are "public bodies" governed by the Open Meeting Law. According to the Attorney General's office, a public body also includes a committee appointed by the City Manager if it is the intention that the committee will provide recommendations to the Council. On the other hand, a committee appointed by the City Manager to provide advice only to the Manager would not be a "public body." If a Department Director appoints a committee to research and advise him or her, the committee is not a "public body."

3. *What is a meeting?*

Any time a quorum of the public body discusses, proposes, or takes legal action related to municipal business, a meeting is being held. "Legal action" includes collective decisions, commitments, or promises of the public body and is not necessarily a formal vote. A series of gatherings of less than a quorum can result in a meeting, especially if a consensus is reached. The gathering of the quorum may be held with one or more members participating by telephone or video conferencing. A meeting may also result from discussions had by e-mail if a quorum is involved and a "discussion" is taking place about municipal business. Great care should be taken in the use of e-mail to be sure you do not violate the Open Meeting Law.

4. *If my Board or Commission is going to have a meeting, what do we have to do?*

The law requires that public bodies of the municipality must file a statement with the Clerk or Mayor's Office stating where public notices of their meetings will be posted, and that the notice will be posted on the internet. The law also requires that the public body

“shall give such additional public notice as reasonable and practical as to all meetings.” In addition, meetings may not be held without at least 24-hours’ notice to the members of the public body and to the general public.

An agenda must include the date, time, and place of the meeting. It must also include an agenda of matters to be discussed or decided at the meeting or information on how the public may obtain a copy of the agenda. There is an exception for an “actual emergency,” in which case the meeting may be held without the required 24-hour notice so long as the notice is posted with 24-hours declaring that the emergency meeting has been held. In that case, the notice must include a discussion of the specific matter considered/decided at the meeting. There are very few circumstances that qualify as “actual emergency” and unless a flood or fire is racing through the municipality that absolutely requires a Board or Commission to hold a meeting related to that flood or fire, there probably is not an emergency that would qualify under the Statute.

5. Can we discuss matters not on the agenda?

No, unless there is “actual emergency” (see above).

6. May there be a “communications from citizens” on the agenda?

Yes, but the member of the public who is speaking is only allowed to address the public body on an issue within the jurisdiction of the public body. The public body may not discuss the matter raised by the member of the public, but at the conclusion of the 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.

7. May the agenda include an item permitting individual members of the Board or Commission to make a statement or report (without discussion) at the end of the meeting.

Yes, the law does permit the public body to include on the agenda an item to “Report on Current Events” by the chair, Board or Commission member, and Department Director (or other principal staff person in charge of the board or commission). At that time, the individual may make a report to the public and public body. However, the public body may not discuss or take legal action on the matter unless the matter has also been listed on the agenda.

8. Does my Board or Commission have to keep minutes of the meetings?

Yes. Your Board or Commission must take minutes.

9. What has to be included in the minutes?

For meetings other than executive sessions (see below), minutes must include:

- a. The date, time, and place of the meeting.
- b. The members of the public body recorded as either present or absent.
- c. A general description of the matters discussed.
- d. An accurate description of all legal actions proposed, discussed or taken and the names of members who propose each motion. The minutes shall also include the names of the persons, as given, making statements or presenting materials to the public body and a reference to the legal action about which they made statements or presented material.

The minutes must be open to public inspection three working days after the meeting.

10. Do our minutes have to be posted on a website?

Yes, a statement showing the legal actions taken by the public must be posted within three (3) working days following the meeting. Draft minutes meet this requirement.

11. Can my Board or Commission meet in private?

Yes, if it is for one or more of the specific purposes listed in the statute for which public bodies may meet in private. Those purposes are:

- a. Discussion of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of the public officer, appointee or employee. Generally, your Board or Commission will not have these discussions since you have no jurisdiction to appoint, promote, demote, or take other employee actions.
- b. Discussion of records exempt by law from public inspection.
- c. Discussion or consultation for legal advice with the attorney or attorneys of the public body.
- d. 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, pending or contemplated litigation or settlement discussions conducted in order to avoid or resolve litigation.
- e. Discussion with the public body's representatives regarding negotiations with employee organizations regarding salaries, salary schedules and compensation.
- f. Discussion for international or interstate negotiations or with members of a tribal council of an Indian reservation located within or adjacent to the municipality.
- g. Discussion with the public body's representatives regarding its position on the purchase, sale, or lease of real property.

Most executive sessions for your Board or Commission will be for the purpose of receiving legal advice.

12. If we have an executive session, do we have to keep minutes?

Yes. However, minutes are kept confidential except from members of the public body that met in the executive session and officers, appointees, or employees who are the

subject of discussion if the executive session was held for personnel reasons.

13. Can I use email to communicate with my fellow board or commission members?

Yes, but with caution. Use of email can constitute a meeting when the email proposes legal acts or when there is an exchange of facts and/or opinions if it is foreseeable that the topic may come before the board or commission for action. For example, the Attorney General's Office cautioned that even a single email-without any responses-could violate the Open Meeting Law if the email is sent to a quorum of the public body and proposes legal action. Moreover, if a majority of the board or commission responds to an email, it can constitute action for an illegal meeting. Be careful in responding to all and of chain emails. Use of emails in this manner can constitute a meeting which has not been properly noticed.

14. Can I express my opinion to the news media or discuss an issue with the public if I know other board members may read or hear my comments?

Yes. 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 or through news or social media outlets as long as (1) the opinion or discussion is not principally directed at or directly given to another member of the public body, and (2) there is no concerted plan to engage in collective deliberation to take legal action. Additionally, the Attorney General's Office has released an opinion that a meeting does not occur when members of the public body merely hear or read a comment made by another member of the public body in the media.

15. What happens if my Board or Commission violates the Open Meeting Law?

The first thing that happens is that any action taken in violation of the Open Meeting Law is null and void. The second thing that happens is that the Attorney General or County Attorney's Office may investigate a complaint alleging a violation of the Open Meeting Law and conduct an investigation. The Attorney General or County Attorney has broad powers to inspect all documents, require any person to submit a report or make a statement and issue investigative demands for production of documents. If a public body or an officer refuses the Attorney General or County Attorney may go to court to get an order for enforcement. Upon finding that a public officer has violated the Open Meeting Law, a court may impose a civil penalty not to exceed \$500.00 for each violation against the person who violates the article or knowingly aids, agrees to aid, or attempts to aid another person in violating the Open Meeting Law. If the court determines that the public officer intended to deprive the public of information, a court may remove the public officer from the office and shall assess him with all costs and attorney fees awarded to plaintiff in pursuing the action. The municipality may not expend public monies to retain legal counsel to provide legal services to the public body

or an officer unless the public body takes legal action at a public meeting to approve the expenditure.

Additional information on the Open Meeting Law is available. See Attorney General's Arizona Agency Handbook, Chapter 7, and the Arizona Ombudsman's Open Meeting Book.

CONFLICT OF INTEREST LAW FREQUENTLY ASKED QUESTIONS

Conflict of interest laws are written to protect the public's interests primarily, but they also provide protections for the public agency and for you.

It is a felony if you knowingly or intentionally violate the Conflict of Interest Law. A negligent or reckless violation is a misdemeanor. You can also be prosecuted for failing to disclose a conflict that you did not know about but should have. You have to be alert to this possibility and make all reasonable efforts to identify potential conflicts.

The Conflict of Interest Law applies to all public officers, including Board and Commission members, and employees of incorporated cities and towns. It can also apply to relatives of public officers and employees. Generally, all City employees and elected and appointed officials must be constantly on guard against conflicts of interest. Because there are severe penalties for violating the Conflict of Interest Law, you should understand your obligations, liabilities, and rights.

The law makes it the Board or Commission member's responsibility to make known any conflict of interest immediately. This should occur prior to any discussion or statements regarding the item for which the member has the conflict. The State conflict laws apply to all public officials and when the State law was adopted it was intended to supersede any other local law or Charter. The law was intended to be uniform statewide.

At times, Board and Commission members may need to declare a conflict of interest. The following questions will assist in determining whether or not you have a conflict of interest.

1. How do I know if I, as a member of a public body, have a conflict of interest?

The first question you have to ask is whether, in any matter that comes before your Board or Commission, you have a "pecuniary" interest in the outcome. A pecuniary interest is any matter, where you stand to gain or lose something of value from the decision.

2. If I determine I have a pecuniary interest in a decision, then what?

You need to determine whether your interest is a "remote interest". A remote interest is any of the following:

- a. The interest of a non-salaried officer of a non-profit corporation.
- b. The interest of a landlord or tenant of the contracting party.
- c. The interest of an attorney of a contracting party.
- d. The interest of a member of a non-profit cooperation marketing association.
- e. The ownership of less than three percent of the shares of a corporation for profit, provided the total annual income from dividends, including the value of stock

options, from the corporation does not exceed five percent of the total annual income of such officer or employee and any other payments made to him by the corporation do not exceed five percent of his total annual income.

- f. The interest of a public officer or employee in being reimbursed for his actual and necessary expenses incurred in the performance of official duty.
- g. The interest of a recipient of public services generally provided by the incorporated city or town, political subdivision or State department, commission, agencies, body or board of which who is a public officer or employee on the same terms and conditions as if he were not an officer or employee.
- h. The interest of a public school board member when the relative involved is not a dependent or spouse.
- i. The interest of a public officer or employee or that of a relative of a public officer or employee unless the contract or decision involved would confer a direct economic benefit or detriment upon the officer, employee or his relative or any of the following
 1. Another political subdivision,
 2. A public agency of another political subdivision; or
 3. A public agency except if it is the same governmental entity.
- j. The interest of a member of a trade, business, occupation, profession or class of persons consisting of a least ten members which is no greater than the interest of the other members of the trade, business, occupation or profession or class of persons.

3. If I determine that my pecuniary interest does not fit into one of the above exceptions, then what?

If your pecuniary interest does not fit one of the above exceptions, then you have a "substantial interest". If the interest fits into one of the above exceptions, you do not have a conflict of interest.

4. If I have a substantial interest in a decision or matter coming before my Board or Commission, what should I do?

You must not take part in any discussion or action involving that matter. You do not have to resign from the Board or Commission. However, you must "make known" your substantial interest in the public records. The Clerk has a form for you to fill out that you will keep on file. You must disclose on that form the substantial interest that you have that resulted in the conflict of interest.

5. What happens if I violate the conflict of interest laws?

Any person affected by the decision of the public body may commence a civil suit in Superior Court for the purpose of enforcing the law. The Court may award reasonable attorneys' fees to the prevailing party. Intentionally or knowingly violating the conflict of interest laws is a Class VI Felony. Recklessly or negligently violating the conflict of interest laws is a Class I Misdemeanor. A person found guilty might be required to forfeit his public office.

PUBLIC RECORDS LAW

The City's records are the property of the State of Arizona. State laws require that records be maintained in accordance with the laws, standards, and requirements developed and implemented by Arizona State Library, Archives, and Public Records.

The Arizona Revised Statutes define records as books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by any governmental agency in pursuance of law or in connection with the transaction of public business. Therefore, records include databases and electronic information.

The Staff Liaison is responsible for maintaining records of the Board or Commission. State law governing records disclosure and protection of the public's right to know require that the municipality permit examination and/or reproduction of records. Agenda packets and other materials provided to Boards or Commissions by City staff are retained by City staff if they are a record. Board and Commission members may dispose of the agenda after the meeting. If a Board or Commission member keeps notes on agenda packets and retains the packets they are subject to disclosure if the City of Chandler receives a public records request or a subpoena.

Electronic mail (email) may be used to transmit documents or may be a record in itself. Board and Commission members must exercise extreme caution in the use of email if communicating with other Board and Commission members so a meeting does not take place. Generally, it is acceptable to disseminate information via electronic mail, but no discussion should occur or there is a risk that the communication may violate the Open Meeting Law. Board and Commission members that use private email accounts are responsible for forwarding record emails to the Staff Liaison for retention in conformance with the law.

To avoid problems, keep the following three tips in mind. First, whenever creating documents presume they will be public records available for inspection, copying, and printing. Second, do not tamper with a public record – by destroying it, backdating it, hiding it, altering it, or otherwise falsifying it. Third, whenever you receive a request for a public record, please contact your Staff Liaison or the City Clerk's Office.

Boards and Commissions Handbook

Adopted by Chandler City Council
January 25, 2018, Resolution No. 5121

CITY OF CHANDLER
201 Boards and Commissions Handbook



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