

# SUNSHINE

# State Sunshine Law and Public Records Law



## OVERVIEW

With its Government in the Sunshine and Public Records laws, the State of Florida leads the nation in government transparency. To build public trust, these laws establish the right for residents to observe decision-making at both the state and local government levels. In practice, this generally means that communications and records related to government business belong to the public, and therefore must be accessible and/or available for public inspection.

## SUNSHINE LAW

Under the Sunshine Law, any communication or conversation between two or more City board members regarding issues that may come before your board must occur only at a meeting noticed to the public and press. This means that outside of a publicly noticed meeting you cannot discuss with other board members any issues your board may potentially consider as a board. In practicality, you should avoid discussing board business with fellow board members (1) in the meeting room before or after a public meeting, (2) via email, texts, social media, telephone, or letters, (3) during casual gatherings or chance encounters, and (4) by using third party liaisons to communicate between each other.

The Sunshine Law also applies to any single board member when that member acts as the sole decision maker for the board as a whole.

There are three basic requirements :

- Board business must take place at public meetings;
- Reasonable notice of such meetings must be given; and
- Minutes must be taken and promptly recorded.

## HIGHLIGHTS

- ❑ **ONLY discuss issues at publicly noticed meetings.**
- ❑ **ASK thoughtful questions during public meetings before voting to avoid the appearance that things have been already decided and to let citizens see your thought process.**
- ❑ **AVOID side-bar conversations during a meeting.**
- ❑ **AVOID conversation while entering and exiting the board meeting, even if you have already voted on an issue.**
- ❑ **Individual board members CAN discuss issues with employees of the City and other agencies**
- ❑ **Individual board members CAN share relevant information with other board members between meetings. ASK your board liaison to send a one-way email.**
- ❑ **Two or more board members CAN attend and speak at a publicly noticed meeting held by different board, but they cannot engage with each other.**

You are responsible for ensuring that when you participate in public meetings, a notice of that meeting was distributed, ideally 7 days before a regular meeting and no less than 24-hours before a special meeting. Notices must include a date and start time, and when possible, should also include an agenda or list of topics to be addressed at the meeting. Written minutes must also be taken and open for inspection. Both notices and minutes are usually handled by a City employee assigned to your board, but you are responsible to verify it is happening. In the instance no City staff is at your public meeting, you must take minutes yourself. This is most likely to happen in a committee or sub-committee meeting.

The Sunshine law, found in Florida Statutes Chapter 286, also requires that the public have an opportunity to comment before any final action is taken.

***Violating the Sunshine Law could result in fines up to \$500, 60 days in jail, and civil suits that invalidate decisions and award attorney's fees.***

## **PUBLIC RECORDS**

All records related to the transaction of official government business must be made available to the public upon request. This includes all emails, text messages, social media postings, documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, and handwritten notes related to your board business – regardless of whether they are in their final form and regardless of where they are kept. *Even personal notes and draft documents intended for personal use become public records if they are communicated to anyone else.*

We recommend that you keep a binder of all of the records generated by you related to City Business that you turn over to the City and that you forward all of emails you receive regarding board business to the City employee that supports your board. If you receive any request for records of your board, immediately forward the request to the City liaison for your board so it can be handled correctly and in a timely fashion.

***Penalties for failing to maintain or destroying public records can include maximum of one year in jail and criminal fines; civil penalties, including \$500 fine.***

The Florida Attorney General's Sunshine Manual:  
[http://myfloridalegal.com/webfiles.nsf/WF/MNOS-AXJGEU/\\$file/2018+Government+in+the+Sunshine+Manual.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MNOS-AXJGEU/$file/2018+Government+in+the+Sunshine+Manual.pdf)

- DO NOT prevent the public from attending public meetings.**
- DO NOT ask anyone to leave a public meeting.**
- DO NOT begin the meeting early, not even by one-minute.**
- ASK the Ethics Office if you are not sure**

## **REQUIREMENTS**

- Minimum of 24 hours notice is required for meetings.**
- Public meetings MUST be in buildings that are accessible to all members of the public, including persons with disabilities**
- Allow public COMMENT before final action is taken.**

## **PUBLIC RECORDS**

- DO NOT destroy or delete records related to City business.**
- ANY RECORDS related to City business that are located in personal e-mail accounts or on personal devices (including cell phones) are public records, including text messages and emails.**
- CREATE A SYSTEM to store your public records so they can be easily retrieved, such as scanning documents and saving texts.**
- BE PREPARED to respond to requests for public records.**