

Area Commissions: Open Meetings & Public Records

Columbus City Attorney Zach Klein's Office



THE CITY OF
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ANDREW J. GINTHER, MAYOR

DEPARTMENT OF
NEIGHBORHOODS



Formation of ACs:

Early 1970's - Columbus City Council established Area Commissions to act as a liaison between neighborhood groups and city government.

1996 - the Area Commission provisions of the Columbus City Code were reorganized and moved from the Zoning Code to Title 31, which is now known as the Planning and Historic Preservation Code.



Purpose of ACs:

Area Commissions are established to afford additional voluntary citizen participation in decision-making in an advisory capacity and to facilitate communication, understanding, and cooperation between neighborhood groups, city officials and developers.”



Public functions of ACs:

- Hold hearings on problems and issues affecting the neighborhood
- Recommend legislative solutions
- Make recommendations for restoration and preservation of historical elements
- Make recommendations on matters pertaining to rezonings, special permits, variances, demolitions, and zoning appeals.



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OPEN MEETINGS

The Columbus City Charter requires that all public bodies hold meetings in accordance with the general laws of the State of Ohio pertaining to Open Meetings.

An Area Commission, with its commissioners appointed by the Mayor and with its advisory role in the decision-making process relating to zoning and planning issues, is a public body and must comply with the Open Meetings Act.



GENERAL PROVISIONS OF THE OPEN MEETINGS ACT

Public bodies must conduct their business in meetings that are open to the public.

A public body may include the committees or subcommittees of a public body, even if those committees or subcommittees do not make the final decisions of the public body.



WHAT IS A MEETING

- 1. A prearranged gathering** (can be in person, via email, over the phone, or virtual),
- 2. Of a majority of the members of the public body (QUORUM),**
 - A member of a public body must be present in person at a meeting in order to be considered present, vote, or be counted as part of a quorum, unless a specific law permits otherwise. In the absence of statutory authority, public bodies may not conduct a meeting via electronic or telephonic conferencing.
- 3. Who are discussing or deliberating public business.**
 - “Discussion” is an exchange of words, comments, or ideas.
 - “Deliberation” is the weighing and examination of reasons for and against taking a course of action.
 - “Discussion” or “deliberation” does not generally include information-gathering, attending presentations, or isolated conversations between employees.



NOTICE

The Open Meetings Act requires that a public body give appropriate public notice of its meetings.



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NOTICE REQUIREMENTS:

Regular meetings - notice must include the time and place of the meeting.

- ▶ Columbus City Code requires notice of meetings be published in the City Bulletin.
- ▶ These should be held at prearranged intervals, such as monthly.

Special and emergency meetings - notice must include the time, place, and purpose of the meeting.

- ▶ Must provide at least 24 hours-notice.



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OPEN TO THE PUBLIC

The Open Meetings Act requires that a public body make all of its meetings open to the public at all times.

Secret ballots, whispering of public business, and “round-robin” discussions are all prohibited.

- Exception: a public body may go into “executive session” outside of public hearing, under certain circumstances, if proper procedures (motion, second, roll call vote in open session) are followed.



EXECUTIVE SESSION:

Discussion in an executive session must be limited to one of following topics:

- Personnel matters
- Purchase or sale of property by the public body
- Pending or imminent court action
- Collective bargaining matters
- Matters required, by law, to be kept confidential
- Security matters
- Hospital trade secrets
- Confidential business information of an applicant for economic development assistance (trade secret, etc)
- Veterans Service Commission applications

No votes and no official action may be taken in executive session.



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MINUTES:

The Open Meetings Act requires a public body keep & maintain meeting minutes.

Minutes must be:

- (1) promptly prepared,
- (2) filed,
- (3) maintained, and
- (4) open to the public.

Meeting minutes do not need to be verbatim transcripts, but must have enough detail to allow the public to know what transpired at a meeting and to understand and appreciate the rationale behind a public body's decisions.



THE OHIO PUBLIC RECORDS ACT

1. Allows for public inspection of state and local government records kept by any public office. This is different from a public body subject to open meetings requirements.
2. Excludes certain records from disclosure.
3. Provides enforcement measures if a request is denied improperly.



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IS AN AREA COMMISSION A PUBLIC OFFICE?

YES - the Ohio Revised Code & Columbus City Code make it clear that an AC is a public office:

- Ohio Revised Code 149.011(A) – a public office includes any state agency, public institution, **political subdivision**, or other organized body, office, agency, institution, or entity established by the laws of this state for the exercise of any function of government.
- Within the political subdivision of Columbus, City Code Chapter 3109 allows for the establishment and provides for the functioning of ACs while Chapter 3111 creates the specific ACs.



WHAT IS A PUBLIC RECORD?

ORC § 149.011(G):

1. Any document, device, or item, regardless of physical form or characteristic, including an electronic record,
2. Created or received by or coming under the jurisdiction of any public office,
3. Which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office.

A record is not subject to disclosure if it does not meet all 3 parts of the definition.



EXAMPLES OF PUBLIC RECORDS OF AN AC

1. Agendas and minutes from a AC public meeting
2. Zoning application packets
3. Annual budgets / financial reports
4. Emails/text messages that document the “business” of the AC
5. Recordings of virtual meetings
6. Bylaws of the AC



MAINTAIN RECORDS REQUIREMENT

1. Records must be kept/organized in a manner that they can be made available, upon request, timely.
2. Records retention schedule should be readily available to the public for inspection – provided by DON
3. Records must be maintained in accordance with the records retention schedule



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COMPLIANCE WITH A PUBLIC RECORDS REQUEST

1. Request can be made in any manner – in person, phone, email, letter, etc... and can be made anonymously; no reason has to be provided for the request; it should have some specificity
2. To properly comply, the AC may request more details about the nature of the request
3. Records can be made available for in person inspection or copies can be provided; or, it can be delivered electronically
4. Only existing records must be provided; the AC does not need to create a new record



WHEN TO ASK THE CAO FOR GUIDANCE:

1. It is unclear as to what specific records are being requested.
2. Uncertainty surrounding whether records are protected/exempted and should not be disclosed.
3. Questions about redacting certain information from a record before disclosure.
4. Correspondence from the requester asserts non-compliance with request.



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